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THE
LEGISLATIVE ASSEMBLY DEBATES

(OFFICIAL REPORT)

VOLUME VI, 1932

(7th November to 28th November, 1932)

FOURTH SESSION
OF THE
FOURTH LEGISLATIVE ASSEMBLY,
1932



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The Legislative Assembly is fully competent to enact an indemnity clause before any cause for it has arisen. 2868.

The Legislative Assembly is fully competent to enact that the decisions of the District Judge and the Chief Judge of the Small Cause Court are final. 2868.

When a — proposes to supplement some provisions of an Act of a Provincial Legislature which deal with legal procedure, Honourable Members are entitled to refer to them only, but they cannot discuss the merits of that Act. 3197.

While speaking on the clause of a —, Honourable Members must restrict themselves to the provisions of that particular clause only and must not be dealing with the whole —. 2657.

Miscellaneous—

An Honourable Member cannot call another Honourable Member of the House a buffoon. 2221.

An Honourable Member while quoting instances must bear in mind that these are relevant to the matter under discussion, but reading out a series of instances without in any way attempting to connect them with the main issue cannot be allowed. 2229.

Unfounded and unwarranted allegations cannot be allowed to be made by one Honourable Member against another Honourable Member. 3196.

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Question(s)—

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When an Honourable Member giving notice of a — ceases to be a member of the Assembly he loses the right of interpellating Government. 1701.

Resolution(s)—

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Resolution(s)—contd.

In the terms of the Standing Order, two days' notice is required for every amendment to be moved. The Chair has the power of suspending the Standing Order and allowing an amendment to be moved at any stage of the debate; but in order that the Chair may be able to consider whether an amendment should be allowed without notice, it is necessary that an Honourable Member should hand over in writing the amendment which he proposes to move. 1959.

Rules applying to — apply to amendments on — as well. 2930.

Select Committee—

Happenings of the Select Committee should not be dealt with elaborately by any Honourable Member on the floor of the House. 2195.

In cases where a charge is made against an Honourable Member in connection with what happened in the Select Committee and he contradicts it, the House usually accepts the contradiction. 2104.

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The question of what happened in the — is outside the scope of the discussions on the floor of the House. 2103.

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Appointment of Hindus and Muslims as storemen in the Indian Army Ordnance Corps. 1694-95.

Appointment of Permanent Way Inspectors on the North Western Railway. 1700.

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Classification in jail of Maulana Ataullah Shah Bokhari of Amritsar. 1788.

Communal composition of persons holding selection grade posts in Kashmir and Multan Postal Divisions. 1692.

Demand of security from the keeper and printer of the *National Call*, an English daily to be started from Delhi. 3030.

“Discharge” and “Acquittal” of postal officials accused in criminal cases under section 209 of the Code of Criminal Procedure. 2900.

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Officiating chances of Permanent Way Inspectors for Muslims in Lahore Division of the North Western Railway. 1701.

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- Applications submitted by Indian firms and industries before the Railway Rates Advisory Committee against various railways charging unfair rates. 2150.
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- Bad condition of a road near Turkman Gate, Delhi. 2549.
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- False and counterfeit certificates issued during the time of the present Superintendent of Education, Ajmer-Merwara. 2907.
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- Government servants joining duly registered labour unions. 2271.
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- Loss in the working of the survey printing office, Dehra Dun. 1856.
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Practice of militant usury prevailing in India. 2157.

Price of Burmah Oil Company's petrol. 2059-60.

Prospects of employment of the *ex—"Dufferin"* cadets. 2533.

Purchase of publications for the Library of the Archaeological Department. 1854.

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Reduction of the percentage of Muslim employees in the office of the Chief Auditor, Railway Clearing Accounts, Delhi. 2054.

Re-organisation of the Income-tax Department in the United Provinces. 2141.

Reservation of posts of Assistant Accounts Officers, North Western Railway, for Travelling Inspectors of Accounts. 2899, 2900.

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Retrenchment of railway employees. 3076-77.

Retrenchment of the post of Assistant Director of Engineering Branch in the Indian Stores Department. 1860.

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Revision of the rates for food and aerated water supply in trains and on stations. 2010.

Separation of Burma from India. 2675.

Separation of Sind from Bombay Presidency. 2356, 2357.

Shares held by some officers of the East Indian Railway in the Carlsbad Mineral Water Manufacturing Company. 1991.

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LEGISLATIVE ASSEMBLY.

31

Monday, 7th November, 1932.

The Assembly met in the Assembly Chamber of the Council House in New Delhi at Eleven of the Clock, Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

MEMBERS SWORN.

The Honourable Sir Joseph Bhore, K.C.I.E., C.B.E. (Member for Commerce and Railways); Mr. Arthur Moore, M.B.E., M.L.A. (Bengal: European); Mr. E. H. M. Bower, I.S.O., M.L.A. (Nominated Non-Official); Mr. David Burnett Meek, C.B.E., M.L.A. (Government of India: Nominated Official); Mr. Bryce Chudleigh Burt, C.I.E., M.B.E., M.L.A. (Government of India: Nominated Official); Mr. Guru Saday Dutt, M.L.A. (Bengal: Nominated Official); Khan Bahadur Abul Hasanat Muhammed Abdul Hye, M.L.A. (Bengal: Nominated Official); Mr. Pradyumna Prasad Singh, M.L.A. (Bihar and Orissa: Nominated Official); and Mr. Charles William Dunn, C.I.E., M.L.A. (Burma: Nominated Official).

QUESTIONS AND ANSWERS.

INDIANISATION RECOMMENDED BY THE LEE COMMISSION ON THE COMPANY-MANAGED RAILWAYS.

852. *Mr. Uppl Sahab Bahadur: Are Government prepared to take immediate steps to enforce the policy of Indianisation to the full extent recommended by the Lee Commission on all the Company-managed Railways?

Mr. P. R. Rau: Government have, from time to time, drawn the attention of the Company-managed Railways to the undertaking given to carry out the policy of Indianisation, and the question of taking further measures in this direction will be considered again on receipt of a special report on the subject expected in December next.

Mr. Lalchand Navarai: Will the Honourable Member be pleased to say how far effect has been given to the Lee Commission's recommendations with regard to the State Railways?

Mr. P. R. Rau: I believe effect was given to the Lee Commission's recommendations in 1924.

(1077)

REDUCTION OF THE CLERICAL STAFF OF THE RAILWAY RATES ADVISORY COMMITTEE.

853. ***Mr. S. G. Jog** (on behalf of Mr. Bhuput Sing): (a) Will Government be pleased to state if it is a fact that the strength of the clerical staff of the Railway Rates Advisory Committee has been reduced as a measure of economy?

(b) If the reply to part (a) be in the affirmative, will Government be pleased to state the strength of the clerical staff on the 31st March, 1932, and the present strength, and the composition by communities and provinces in each case?

Mr. P. R. Rau: (a) Yes.

(b) The strength of the clerical staff on 31st March, 1932, was seven, of whom six were Hindus and one Muhammadan. This staff consisted of five men from Madras and one each from Bengal and the Punjab. Since 1st April, 1932, the number of permanent staff has been reduced to three, all being Hindus from Madras.

REMOVAL OF THE OFFICE OF THE RAILWAY RATES ADVISORY COMMITTEE FROM CALCUTTA TO VIZAGAPATAM.

854. ***Mr. S. G. Jog** (on behalf of Mr. Bhuput Sing): (a) Is it a fact that the office of the Railway Rates Advisory Committee was transferred in April last from Calcutta to Vizagapatam, the native place of Sir B. N. Sarma, the President? If so, why?

(b) If the reply to part (a) be in the affirmative, why has the change not yet been notified to the public?

(c) Why was the change of headquarters effected?

Mr. P. R. Rau: (a), (b) and (c). I would refer the Honourable Member to the reply I gave to Mr. Thampan's question No. 648 on the 22nd September, 1932.

POST OF THE CHIEF CLERK OF THE RAILWAY RATES ADVISORY COMMITTEE.

855. ***Mr. S. G. Jog** (on behalf of Mr. Bhuput Sing): (a) Is it a fact that Mr. A. Natesan, the present Chief Clerk of the Railway Rates Advisory Committee, is the holder of a permanent pensionable post under the Government of Madras?

(b) If the answer to part (a) be in the affirmative, what are the reasons for keeping this man?

(c) Are Government prepared to take steps to select for this post a suitable and qualified person from amongst those discharged from the Railway Board's office and the different railways as a measure of retrenchment and to revert Mr. A. Natesan to his permanent post under the Government of Madras?

Mr. P. R. Rau: (a) Yes.

(b) and (c). I am informed that he has been kept on in the interests of work as particularly experienced and useful.

ALLOCATION OF SEATS IN THE PROVINCIAL LEGISLATURES APPENDED TO THE COMMUNAL AWARD.

856. ***Bhai Parma Nand:** Will Government be pleased to state the population of the classes and communities, whose voters will elect in each province the members shown in the column "General" of the statement of allocation of seats in the provincial legislatures appended to the communal decision?

The Honourable Sir Brojendra Mitter: The Honourable Member is referred to the reply given by Sir C. P. Ramaswami Aiyar to part (a) of Mr. Gaya Prasad Singh's unstarred question No. 57 on the 19th September, 1932.

Mr. Lalchand Navalrai: Will the Honourable Member be pleased to state why the word "General" is used instead of using the expressions, "Hindus", etc.?

The Honourable Sir Brojendra Mitter: That is the expression which His Majesty's Government chose.

MUSLIM POPULATION OF ASSAM.

857. ***Bhai Parma Nand:** Will Government be pleased to state the population of Muslims in Assam, and their proportion to the total population?

The Honourable Mr. H. G. Haig: The Muslim population of Assam is 2,755,914 or approximately 30 per cent. of the total population.

COMMUNAL COMPOSITION OF THE CONSTITUENCY CALLED "LABOUR SPECIAL" IN EACH PROVINCE.

858. ***Bhai Parma Nand:** Will Government give the communal composition of the constituency called "Labour Special" in each province?

The Honourable Sir Brojendra Mitter: The Honourable Member is referred to the reply given to the third part of Mr. Gaya Prasad Singh's unstarred question No. 57 on the 19th September, 1932.

COMPOSITION OF THE CONSTITUENCY OF "COMMERCE, INDUSTRY AND MINING" IN BENGAL.

859. ***Bhai Parma Nand:** Will Government be pleased to state how the constituency of "Commerce, Industry and Mining" in Bengal is composed, and what is the proportion of European voters in these constituencies in Bengal?

The Honourable Sir Brojendra Mitter: The Honourable Member is referred to the reply given to the fourth part of Mr. Gaya Prasad Singh's unstarred question No. 57 on the 19th September, 1932.

NON-RESERVATION OF SPECIAL SEATS FOR THE DEPRESSED CLASSES IN THE PUNJAB.

860. *Bhai Parma Nand: (a) Are the Depressed Classes in the Punjab included among the Hindu population of that province?

(b) If not, why is it that no special seats are reserved for them in the Legislature?

The Honourable Sir Brojendra Mitter: (a) The majority of the Depressed Classes in the Punjab were returned as Hindu, the balance being returned as Ad-Dharini.

(b) Under the Poona Agreement which has been accepted by His Majesty's Government, the Depressed Classes have been allotted eight seats in the Punjab Legislative Council.

Pandit Satyendra Nath Sen: Will the Honourable Member kindly give us his definition of Depressed Classes?

The Honourable Sir Brojendra Mitter: It is impossible to define Depressed Classes without going into the matter province by province.

Mr. Lalchand Navalrai: To whose decision will that classification be left?

The Honourable Sir Brojendra Mitter: The Local Government.

Dr. F. X. DeSouza: Will members of the Depressed Classes continue to belong to the category of Depressed Classes when they are converted to Christianity?

The Honourable Sir Brojendra Mitter: I should think not.

Dr. F. X. DeSouza: Why not?

The Honourable Sir Brojendra Mitter: Because Indian Christians have been classified separately.

Dr. F. X. DeSouza: Is there any justification for not giving them their economic status as Depressed Classes and giving them the privileges appertaining to the Depressed Classes, simply because they have adopted Christianity?

The Honourable Sir Brojendra Mitter: The Depressed Classes are regarded for the purposes of His Majesty's Government's decision as part of the Hindu community. As to who should be regarded as Depressed Classes in any particular province is a matter which will be decided by the Provincial Government.

Mr. K. Ahmed: In view of the fact that the Honourable the Law Member has failed to define the Depressed Classes to distinguish them from the Hindus, do Government, particularly the Government of India, realise that it is incumbent on them before the separation is caused to define these people?

The Honourable Sir Brojendra Mitter: I could not follow the question.

Mr. K. Ahmed: For the benefit of the Law Member, I repeat the question, Sir. In view of the fact that it is they who have separated one class from another and in view of the fact that the separation is admitted by the Honourable Member himself, cannot they define and classify one class of people from the other?

The Honourable Sir Brojendra Mitter: I should have thought the question had better be put to the signatories to the Poona Agreement.

Mr. M. Maswood Ahmad: Are Government aware that the Franchise Committee has mentioned *Halalkhor*, which is a part of the Muslim community, amongst the Depressed Classes?

The Honourable Sir Brojendra Mitter: At the moment I confess it is not present to my mind. I do not remember what the Franchise Committee said on that particular point.

Mr. M. Maswood Ahmad: Will the Honourable Member please see the reports of the Franchise Committee?

The Honourable Sir Brojendra Mitter: I shall.

Mr. K. Ahmed: In view of the fact that the Honourable the Law Member has not clearly and accurately answered the question on the definition of the Depressed Classes and in view of the fact that somebody else in Whitehall or in the British Cabinet have divided these people, do I understand that the Government of India are unable to realise the fate of these people who have been separated from each other?

Pandit Satyendra Nath Sen: By whom are these people depressed and how?

The Honourable Sir Brojendra Mitter: By the Caste Hindus, by caste rules.

Pandit Satyendra Nath Sen: Are the Muhammadans mentioned by my friend, Mr. Maswood Ahmad, depressed by the caste Hindus?

The Honourable Sir Brojendra Mitter: I have already answered in reply to Mr. Maswood that I do not remember what has been said by the Franchise Committee. Therefore I cannot answer these questions.

Sir Muhammad Yakub: There are no Depressed Classes among the Mussalmans and the Franchise Committee have not included any Mussalman in the category of the Depressed Classes.

Bhai Parma Nand: Are Government aware that there is some discontent among the lower classes among Sikhs and Mussalmans and even Christians, because they have not been given separate representation in the Punjab?

The Honourable Sir Brojendra Mitter: Government are not aware of it.

RETRENCHMENT OF HINDU CLERKS BY THE CHIEF ACCOUNTS OFFICER,
NORTH WESTERN RAILWAY.

861. *Bhai Parma Nand: (a) Is it a fact that 26 Hindu clerks were retrenched on the 15th August by the Chief Accounts Officer, North Western Railway, Lahore?

(b) Is it a fact that some of the retrenched clerks held permanent posts and had been taken after they had passed proper competitive tests?

(c) Is it a fact that some of them had held permanent posts in other Government offices and were given pensionable appointments, their service having been treated as transferred from one department to another?

(d) Is it a fact that their juniors of other communities have been kept on?

Mr. P. R. Rau: (a) 16 clerks were originally retrenched, but it has been found possible to reinstate them since.

(b) Yes.

(c) I understand one held a permanent post in another Government Office.

(d) Does not arise, in view of my reply to part (a).

Mr. M. Maswood Ahmad: Is it a fact that prior to the 15th August many clerks of other communities were retrenched, and still Muslims are very poorly represented in that Department?

Mr. P. R. Rau: I must ask for notice.

INQUIRY INTO THE HIGH EXPENDITURE ON THE KANGRA VALLEY RAILWAY.

862. *Bhai Parma Nand: Will Government please state:

(a) the original estimated cost of the Kangra Valley Railway,

(b) the actual expenditure incurred on the construction of this railway,

(c) whether any committee was appointed in 1930 with Mr. M. L. Brayshaw and others, to enquire into the unexpected high expenditure thus incurred,

(d) if so, with what result,

(e) whether Government will please lay a copy of this report on the table of this House,

(f) whether this committee examined any non-official and private witnesses, or examined any contractors who had done work on this construction,

(g) whether the examination was limited to Railway and other officials only, and

(h) the method of enquiry?

Mr. P. R. Rau: (a) 184 lakhs.

(b) The latest estimate is about 295 lakhs.

(c) Yes. The committee consisted of Mr. M. W. Brayshaw as Chairman, Dr. W. R. Horn, Mr. A. N. J. Harrison and Mr. C. Tedman as Members.

(d) and (e). A copy of their report is in the Library.

(f) No.

(g) Yes.

(h) I would invite the Honourable Member's attention to paragraph 3 of the Report.

DISPUTES OVER ARREAR PAYMENTS, ETC., BETWEEN THE CONTRACTORS AND
THE KANGRA VALLEY RAILWAY ADMINISTRATION.

863. *Bhai Parma Nand: Will Government please state:

(a) whether there were, or are, any disputes on the point of arrear payments or work done, between any contractors and the Kangra Valley Railway authorities;

(b) if so, how many cases, with their nature and names of contractors;

(c) how many and which of these cases have been settled by the Railway authorities (i) out of court, and (ii) in the court;

(d) how many of them are still pending and at what stages, giving names of contractors;

(e) what allegations were made by these contractors when putting forth their claims; and

(f) how much money has already been spent by the Railway on these litigations, and how much more they expect to spend to settle these cases?

Mr. P. R. Rau: (a) Yes.

(b) Three-Durrell and Company, Rai Bahadur Panna Lal and Balwant Singh.

(c) None have yet been settled either in or out of Court.

(d) The first two are, I understand, pending in the Court of the Senior Sub-Judge, Dharamsala, and the third which was before another Sub-Judge is under reference to the High Court.

(e) As the cases are before the Courts at present, Government are unable to make any statement on the facts.

(f) The amount spent already is Rs. 4,000. I am unable to say at present how much more it will cost.

CLAIMS PUT FORWARD BY CONTRACTORS AGAINST THE KANGRA VALLEY
RAILWAY ADMINISTRATION.

864. *Bhai Parma Nand: (a) Are Government aware that on account of the facts that unusually high expenditure has been incurred on the construction of the Kangra Valley Railway, and that a number of claims

have been put forward by some contractors against them, a good deal of bad impression and public scandal about the Railway administration have been created?

(b) Will Government please state whether there are any objections to the Railway administration getting these cases of claims by the contractors settled by compromise through arbitration as suggested by paragraph 45 of the North Western Railway Hand Book, 1924 edition?

(c) Will Government please state what has been the result of one such case of claim against the Kangra Valley Railway that has recently been decided in the court of the Senior Sub-Judge at Lahore?

Mr. P. R. Rau: (a) No.

(b) The contract agreements entered into with these contractors contain a clause admitting of Arbitration on certain conditions; but the contractors, I am informed, now wish to depart from these conditions and the North Western Railway Administration have been advised that, to protect their interests, the claims should be dealt with in a Court of law.

(c) It is under appeal.

CALLING OF TENDERS FOR THE AUCTION OF OLD SLEEPERS BY THE NORTH WESTERN RAILWAY.

865. *Bhai Parma Nand: Will Government please state:

(a) whether the North Western Railway authorities called for this year tenders for the auction at different stations of old sleepers and timber scrap for the period 1932-1934;

(b) whether it is a fact that K. B. Adamjee Mamoojee of Rawalpindi had been doing this auction work for the last many years;

(c) whether it is a fact that the above firm tendered this year a rate of Re. 0-10-0 per cent. for miscellaneous stores, and Re. 0-12-0 per cent. for sleepers;

(d) whether it is a fact that another firm, named R. B. Seth Chadi Ram Devi Sahai Jain of Ferozepur Cantonment tendered a rate of Re. 0-11-9 per cent.;

(e) whether it is a fact that a third firm, named Messrs. Jamsetjee's Sons, of Lahore, had tendered a rate of Rs. 2-0-0 per cent., which is the highest rate of all the tenders;

(f) whether it is a fact that the railway authorities accepted this highest rate and rejected the lowest one, mentioned in part (e) above, and others that were lower than the highest rate;

(g) whether there were any special considerations in accepting the dearest rate of a comparatively new tenderer and rejecting the cheapest rate of an old contractor of the department; and

(h) if so, what those reasons or considerations were?

Mr. P. R. Rau: I have called for certain further information and on receipt will lay it on the table in due course.

CONTRACTORS FOR SELLING ICE AND SODA AT DIFFERENT STATIONS AND IN RUNNING TRAINS ON THE NORTH WESTERN RAILWAY.

866. *Bhai Parma Nand: Will Government please state:

(a) the names of the firms who have contracts for selling ice and soda at different stations and in running trains on the North Western Railway;

(b) whether any owners of ice factories sent in their tenders giving their names;

(c) if so, what are the reasons for which their tenders were not accepted;

(d) how many of the present contractors are factory owners; and

(e) the reasons why owners of factories situated on their line are not given contracts?

Mr. P. R. Rau: (a) The Central Aerated Gas Company, Lahore; the Ganga Ice Factory, Lahore Cantonment; Messrs. Manohar Lal & Bros., Ambala; Messrs. Bliss & Co., Karachi.

(b), (c) and (e). A licensee is appointed for each of the four areas into which the North Western Railway system is divided for the purpose of selling ice and aerated waters at stations and on running trains during the hot weather months. At the end of this period, all complaints received against the licensees are examined, and if it is found that the work of a licensee has been unsatisfactory, applications are invited from aerated water manufacturers for the next season by advertisements. No applications were invited for the 1932 season, as the work of the licensees during the 1931 season was satisfactory.

(d) All.

Mr. Lalchand Navalrai: Who examines the complaints that are made? Is it an officer or any committee consisting of Indians and merchants?

Mr. P. R. Rau: I believe the complaints must be examined by somebody on behalf of the administration. If the Honourable Member wants precise information on the point, I should ask him to put down a question.

Mr. Lalchand Navalrai: I should like to know it.

FACTORIES MANUFACTURING HOLLOW GLASSWARE SITUATED ON THE NORTH WESTERN RAILWAY.

867. *Bhai Parma Nand: Will Government please state:

(a) the names of factories manufacturing hollow glassware situated on the North Western Railway;

(b) whether any glassware is purchased from these factories;

(c) if so, what is the percentage of quantities so purchased and the names of factories;

(d) whether whole quantities of a particular item required by the department, are purchased from these factories, or only a portion;

- (e) if only a portion is purchased, the reasons for taking this step;
- (f) whether the Railway Department was satisfied with the supplies made by any of these factories;
- (g) if so, whether the department took any steps to encourage these factories and thus help the growth of the glass industry in India;
- (h) whether the department uses glass cells and battery jars;
- (i) if so, whether these articles are purchased from these factories or imported from abroad;
- (j) if they are purchased from abroad, the reasons why orders for these articles are not placed with these factories; and
- (k) whether they are prepared to consider the question of purchasing these articles from Indian factories?

Mr. P. R. Rau: (a) The following factories situated on the North Western Railway are registered on the books of the Indian Stores Department for the supply of hollow glassware:

- (1) The Upper India Glass Works, Ambala City.
- (2) The Amritsar Glass Works, Amritsar.

(b) Yes. Glass for Pine Moon and Washington Lamps are purchased from the Upper India Glass Works by the North Western Railway.

(c) and (d). The full requirements of Pine Moon Chimneys and Globes for Washington Lamps for the 1932-33 have been purchased by the North Western Railway from the Upper India Glass Works.

(e) The North Western Railway requirements of clear glass globes were accepted from other manufacturers on the basis of price.

(f) Yes.

(g) Yes.

(h) Yes.

(i) Glass cells and battery jars purchased by the Indian Stores Department are almost entirely of Indian manufacture. Imported cells and jars are purchased only when suitable substitutes of indigenous manufacture are not available.

(j) and (k). Do not arise.

PURCHASE OF GLASS CELLS AND BATTERY JARS FOR THE TELEGRAPH AND OTHER DEPARTMENTS.

868. *Bhai Parma Nand: Will Government please state:

(a) whether glass cells and battery jars, used in large quantities by the Telegraph and other departments, are purchased from factories in India or imported from abroad;

(b) if they are imported from abroad, why these articles cannot be purchased from Indian manufacturers; and

(c) whether they are prepared to consider the question of placing orders in future with glass factories in India?

Mr. T. Ryan: (a) and (b). The battery jars and glass cells required for primary batteries purchased for the Posts and Telegraphs Department are entirely of Indian manufacture. Glass cells for secondary batteries

are ordinarily purchased as parts of complete batteries. Very few glass boxes are required for replacement and these are not manufactured in India owing to the demand being limited. I have not complete particulars for other departments, but the orders entrusted by them to the Stores Department have all been placed with Indian manufacturers.

(c) Does not arise.

DUMPING OF HOLLOW AND OTHER GLASSWARES INTO INDIA.

869. *Bhai Parma Nand: Are Government aware:

(a) that large quantities of hollow and other glasswares are being dumped into India, owing to the depreciation of the Japanese yen in relation to the Indian rupee; and

(b) that this alarming state of affairs is seriously affecting the very existence of the glass industry in this country?

The Honourable Sir Joseph Bhore: (a) and (b). There has been some increase in the imports of glass and glassware from Japan during recent months, but I am not prepared to say that it is either alarming or seriously affecting the existence of the glass industry in India.

REPORT OF THE TARIFF BOARD ON THE GLASS INDUSTRY.

870. *Bhai Parma Nand: Will Government please state:

(a) whether the report of the Tariff Board on the glass industry has been published for the information of the public;

(b) whether any action has already been taken by Government on this report of the Tariff Board; and

(c) whether, in view of the alarming situation created by the depreciation of the Japanese yen, Government propose to consider the advisability, by way of emergency measure, of referring the report back to the Tariff Board, to allow the Board to amend their views and recommendations in the light of this new situation that has arisen unexpectedly since they submitted their report to Government?

The Honourable Sir Joseph Bhore: The attention of the Honourable Member is invited to the reply given to his question No. 810 on the 16th September, 1932, and to which I have nothing to add.

INADEQUATE REPRESENTATION OF MUSLIMS IN THE INCOME-TAX DEPARTMENT, PUNJAB.

871. *Mr. M. Maswood Ahmad (on behalf of Mr. Muhammad Muazzam Sahib Bahadur): (a) Is it a fact that in the Punjab, Mussalmans are very inadequately represented in the Income-tax Department and specially so in the higher grades?

(b) Is it a fact that as a result of the repeated representations of the Punjab Mussalmans and by way of reply to several questions on the floor of this House, Government have, on more than one occasion, promised to redress the grave communal inequalities in the Income-tax Department?

(c) If so, what steps have Government taken in this particular? Will Government be pleased to place before this House a statement of the result of their endeavours?

The Honourable Sir Alan Parsons: (a) I lay on the table a statement showing the present composition of the staff.

(b) Assurances have, I think, been given that the regular policy of Government in regard to the selection of new recruits would be followed.

(c) I would invite the Honourable Member's attention to the reply, laid on the table, to starred question No. 1025 asked by Khan Bahadur Haji Wajihuddin on the 29th March, 1932.

Communal composition of the gazetted and non-gazetted staff of the Income-tax Department, Punjab, on the 31st December, 1931.

	Total number of posts.	Number held by Muslims.
Assistant Commissioners	3*	..
Income-tax Officers	30	6
Inspectors	34	10
Clerks	161	46

*The three Assistant Commissioners are for the Punjab, North-West Frontier and Delhi Provinces.

MUSLIM PERCENTAGE OF THE PERMANENT INCOME-TAX OFFICERS AND ASSISTANT COMMISSIONERS IN THE PUNJAB.

872. ***Mr. M. Maswood Ahmad** (on behalf of Mr. Muhammad Muazzam Sahib Bahadur): What is the Muslim percentage of the permanent Income-tax Officers and Assistant Commissioners in the Punjab? How far does that percentage fall short of their population ratio?

The Honourable Sir Alan Parsons: A statement giving the required information is laid on the table.

Statement showing the communal composition of Income-tax Officers and Assistant Commissioners in the Punjab Income-tax Department on 31st December, 1931.

	Total number of posts.	Number held by Muslims.	Per-centage.	Per-centage of Muslims to total population.	Deficiency on a comparison of (3) and (4).
	(1)	(2)	(3)	(4)	(5)
Assistant Commissioners of Income-tax	3*	..	..	56.5	56.5%
Income-tax Officers	30	6	20%	56.5	36.5%

*The three Assistant Commissioners are for Punjab, North-West Frontier and Delhi Provinces.

MUSLIM INCOME-TAX OFFICERS IN THE PUNJAB.

873. ***Mr. M. Maswood Ahmad** (on behalf of Mr. Muhammad Muazzam Sahib Bahadur): What is the number of Income-tax Officers in the Punjab appointed by direct recruitment and by departmental promotions since 1927 and how many of them in each category are Mussalmans?

The Honourable Sir Alan Parsons: By direct recruitment, none of any community. By promotion, three; none of these was a Muslim.

APPOINTMENT OF MUSLIM ASSISTANT COMMISSIONERS OF INCOME-TAX IN THE PUNJAB.

874. ***Mr. M. Maswood Ahmad** (on behalf of Mr. Muhammad Muazzam Sahib Bahadur): (a) Since its organisation as a separate department, is there any one instance of the appointment of a Muslim Assistant Commissioner in the Income-tax Department of the Punjab?

(b) If so, how long has any such held office? If not, what reasons have Government to advance for such treatment?

The Honourable Sir Alan Parsons: (a) No.

(b) I would refer the Honourable Member to the reply which I gave to question No. 702 by Khan Bahadur Makhdum Syed Rajan Bakhsh Shah.

APPOINTMENT OF ASSISTANT COMMISSIONERS OF INCOME-TAX IN THE AMALGAMATED CADRE OF THE PUNJAB, NORTH-WEST FRONTIER PROVINCE AND DELHI.

875. ***Mr. M. Maswood Ahmad** (on behalf of Mr. Muhammad Muazzam Sahib Bahadur): (a) Is it a fact that at present all the three appointments of Assistant Commissioners of Income-tax in the amalgamated cadre of the Punjab, North-West Frontier Province and Delhi are held one by a Hindu, another by a Sikh and the third by a Christian to the complete exclusion of the Mussalmans?

(b) If so, are Government prepared to take early and effective action to appoint a Muslim as an Assistant Commissioner of Income-tax?

The Honourable Sir Alan Parsons: (a) Yes.

(b) I would refer the Honourable Member to the reply which I gave to part (b) of question No. 702 by Khan Bahadur Makhdum Syed Rajan Bakhsh Shah.

ORDERS FOR SUSPENSION OF PROMOTIONS, APPOINTMENTS, ETC., IN THE RAILWAY DEPARTMENT.

876. ***Shaikh Sadiq Hasan:** (a) Will Government please state if any orders were issued in 1930 to suspend all sorts of promotions, appointments, etc., in the Railway Department, and orders were also issued for making reference to the Employment Officer, Lahore, when such vacancies occur? If so, were these orders strictly observed by all the officers on the North Western Railway, especially in the Lahore Division?

(b) Is it a fact that the Agent's Office took no action when recommendations for confirming certain clerks were sent by the Divisional Superintendent, Multan Division, but on the other hand his action was confirmed? Will Government please state reasons for the disregard of the Railway Board's orders?

Mr. P. E. Rau: (a) I presume my Honourable friend is referring to the orders issued by the Agent, North Western Railway, in 1980, to his subordinate offices that no vacancies should be filled by recruitment of outsiders unless absolutely necessary and that all permanent vacancies should be referred to the Employment Officer who would endeavour to meet any demands for staff from a waiting list of staff previously discharged. Orders were also issued in 1981, in order to employ every method to save discharges, that all vacancies should be filled by surplus staff wherever available in the grade or class in which they occurred before promotions could be permitted. Government have no reason to think that the instructions issued by the Agent were not followed by his subordinate offices.

(b) In the absence of information as to the particular case referred to, the Agent has not been able to give a definite reply to this question.

EMPLOYMENT OF TWO BROTHERS IN THE DIVISIONAL OFFICE, MULTAN, NORTH WESTERN RAILWAY.

877. ***Shaikh Sadiq Hasan:** (a) Will Government please state if the rules regarding non-employment of two brothers in one office are applicable in the Railway Department; if not, why not?

(b) If the reply to part (a) be in the affirmative, will Government state whether men bearing such relationship are employed in the Divisional Office at Multan? If so, why?

(c) Is it a fact that this matter was represented by an employee in 1981 and the then Divisional Personnel Officer passed orders that this matter be referred to the Agent, but as the officer who passed these orders was transferred a few days after, his successor Mr. A. C. Chatterji, Officiating Divisional Personnel Officer, cancelled the orders stating that it was an unnecessary reference?

Mr. P. E. Rau: (a) I am not aware of any rule forbidding such employment.

(b) and (c). Do not arise.

CANCELLATION OF THE ORDERS OF PROMOTION OF BABU SHANKAR DASS BY THE OFFICIATING DIVISIONAL PERSONNEL OFFICER, MULTAN DIVISION, NORTH WESTERN RAILWAY.

878. ***Shaikh Sadiq Hasan:** Will Government please state if Divisional Personnel Officers on the North Western Railway are authorized to cancel orders of the Divisional Superintendent without the latter's approval? If the reply be in the negative, will the Honourable Member please ask for remarks from the Divisional Personnel Officer, Multan Division, why the orders of promotion of Babu Shankar Dass, once approved by the Divisional Superintendent, were cancelled by Mr. A. C. Chatterji, Officiating Divisional Personnel Officer, without the approval of the Divisional Superintendent?

Mr. P. E. Rau: The reply to the first part of the question is in the negative. As regards the second part, orders of promotion of B. Shankar Dass were issued by Mr. A. C. Chatterjee's predecessor with the concurrence of the Divisional Superintendent. On a further representation being made to Mr. Chatterjee these orders were reversed by him. This action was upheld later by the Divisional Superintendent, but Mr. Chatterjee was informed that the original orders, having been approved by the Divisional Superintendent should not have been altered without his prior approval.

REMOVAL OF THE MUSLIM HEAD CLERK, STAFF A, FROM THE POSTMASTER GENERAL'S OFFICE, LAHORE, BEFORE COMPLETION OF HIS USUAL TERM.

879. ***Shaikh Sadiq Hasan:** (a) Is it a fact that head clerks in the Post Master General's Office, Lahore, are changed after every three years?

(b) If the reply to part (a) be in the affirmative, will Government please state why the present Muslim head clerk was removed before the completion of the term of three years?

Mr. T. Ryan: With your permission, Sir, I propose to deal with question Nos. 879, 880 and 881 together.

These questions relate to the filling of particular clerical appointments in the office of the Postmaster General, Punjab. This is a matter within the competence of the Postmaster General, Punjab, to whom a copy of the Honourable Member's question is being sent.

Government have no information on the subject.

REMOVAL OF THE MUSLIM HEAD CLERK, STAFF A, FROM THE POSTMASTER GENERAL'S OFFICE, LAHORE, BEFORE COMPLETION OF HIS USUAL TERM.

†880. ***Shaikh Sadiq Hasan:** (a) Is it a fact that after the amalgamation of the traffic section with the staff A section in the Postmaster General's Office, Lahore, the head clerks of staff A have never been traffic men?

(b) Is it a fact that there is no rule, regulation or office order binding upon the head clerk staff A to be a traffic man?

(c) Is it a fact that the Muslim head clerk staff A had been replaced by a Hindu head clerk of traffic branch on the plea that the Assistant Postmaster General in charge did not know traffic work?

(d) If the replies to the above be in the affirmative, will Government please state what was the necessity for removing the Muslim head clerk before the completion of his term of three years?

REMOVAL OF THE MUSLIM HEAD CLERK, STAFF A, FROM THE POSTMASTER GENERAL'S OFFICE, LAHORE, BEFORE COMPLETION OF HIS USUAL TERM.

†881. ***Shaikh Sadiq Hasan:** (a) Is it a fact that the Engineering Branch work has also been amalgamated with the staff A section in the Postmaster General's Office, Lahore, and that both the present Assistant Postmaster General and the present head clerk have no experience of that work?

(b) If the reply to part (a) be in the affirmative, will Government kindly state fully the reasons and the circumstances which necessitated the removal of a Muslim head clerk?

† For answer to this question, see answer to question No. 879

COMMUNAL COMPOSITION OF PERSONS HOLDING SELECTION GRADE POSTS IN KASHMIR AND MULTAN POSTAL DIVISIONS.

882. *Shaikh Sadiq Hasan: Will Government please intimate how many selection grade posts in the Kashmir and Multan Postal Divisions are sanctioned, and how many of them are held by Muslims and non-Muslims separately?

Mr. T. Ryan: Seven selection grade posts are sanctioned for Kashmir Division and nine for the Multan Division. One such post in each Division is held by a Muslim, one is vacant in the Multan Division and the remainder are held by non-Muslims. Appointments to such posts are made by promotion to which the rule regarding communal representation does not apply.

PAUCITY OF MUSLIM HEAD CLERKS IN THE CIRCLE OFFICE, LAHORE.

883. *Shaikh Sadiq Hasan: (a) Will Government state how many posts of head clerks are held by Hindus and Muslims in the Circle Office, Lahore?

(b) What are the reasons for the paucity of Muslims in these posts and what do Government propose to do to redress the grievances of Muslims with respect to these posts?

Mr. T. Ryan: (a) Of fourteen such posts including the post of Assistant Manager, Stock Depot, two are (or will shortly be) held by Muslims, the rest are held by Hindus.

(b) These head clerkships are selection grade posts, promotion to which is not made on communal grounds.

PAY OF STOREMEN IN THE INDIAN ARMY ORDNANCE CORPS.

884. *Shaikh Sadiq Hasan: (a) Is it a fact that on appointment as Storemen in the Indian Army Ordnance Corps the permanent routine division clerks have been granted lower rates of pay than the extra temporary clerks and other temporary men of the department?

(b) Is it correct that the temporary men were holding an "extra temporary" status, terminable by a formal discharge each year and that they could not qualify in the departmental examination held every year and thus remained unqualified for years, working mostly in one group and thereby acquiring knowledge of the items particular to that group?

(c) Is it a fact that the permanent routine division clerks were holding permanent status and that they qualified by passing the departmental examination and remained serving in different groups and branches at different stations, thereby acquiring a wider knowledge than the temporary men?

(d) Is it a fact that the error of fixing lower rates of pay for the routine division clerk was referred to the Director of Ordnance Services (head of the department) by more than five establishments, and each of the establishments represented even more than four times?

(e) Is it a fact that the Government of India did not grant the equality of rates of pay on the grounds that on appointment as storemen the status of the routine division clerks has been improved and that they have also

chances of future promotion to the post of Assistant Storekeeper and to pensionary benefits?

(f) Is it not a fact that the status of temporary men has been much more improved on appointment as storemen and have they not been granted also chances of promotion to Assistant Storekeeper and pensionary benefits? If so, why have they been granted higher rates of pay than the routine division clerks?

(g) Why have the temporary men been granted better prospects and higher rates of pay than the routine division clerks?

(h) Is it a fact that temporary men with four years extra temporary service have been appointed on Rs. 66 per mensem and that routine division clerks with four years permanent service plus even temporary service have been granted Rs. 50 per mensem? If so, why?

(i) Is it a fact that the temporary men with four years temporary service shall have to serve four years and that a permanent routine division clerk with four years permanent service, 12 years, towards reaching the qualifying rates of pay for promotion to Assistant Storekeeper (viz., Rs. 80)?

(j) In basing the seniority roll of storemen, did not the Director of Ordnance Services take into account the permanent service of the routine division clerks towards seniority? If not, why not? Is it a fact that the period of service is the criterion of seniority among clerks in the Indian Army Ordnance Corps and other sister establishments, and, if so, why have temporary men been placed senior to the permanent men?

(k) Why were the temporary men given antedated appointments from 8th November, 1980? Is it a fact that they were not actually appointed before 1st December, 1980 (the date when the appointment letter reached the arsenals), and why have the routine division clerks been disallowed to avail themselves of the above concession?

Mr. G. R. F. Tottenham: (a) On appointment as storemen, permanent routine division clerks and temporary men of the department are both admitted to the same grade of pay, namely, Rs. 50—4—90. Most of the temporary men are not clerks, but generally perform duties similar to those of storemen.

(b) The pay of temporary men is met from a grant commonly called the "extra temporary" grant controlled by the Director of Ordnance Services. Like temporary men in other departments under Government, they are liable to discharge after due notice. They are not required to pass any departmental examination.

(c) The position is as stated, but I can not agree with the Honourable Member that permanent routine division clerks necessarily possess a wider knowledge than temporary employees of the department. The work of a routine division clerk is generally not such as to qualify him to perform the duties of a storeman.

(d) to (j). Representations have been received, but, as I have already stated, the grade of pay for both classes on appointment as storemen is the same. It is possible that by virtue of his temporary service a temporary man may receive an initial rate of pay higher than that of a routine division

clerk promoted storeman. The rate of increment and maximum pay, however, remain the same for both classes. Government do not consider that any change in the existing rules is necessary.

(k) Because temporary men were actually performing the duties of storemen on the 8th November, 1980, whereas the routine division clerks were not.

INTRODUCTION OF MERIT ROLL FOR STOREMEN IN THE INDIAN ARMY ORDNANCE CORPS.

885. *Shaikh Sadiq Hasan: Has the merit roll been abolished in the case of the Indian Army Ordnance Corps clerks? If so, where was the necessity of its introduction among the storemen? Did it prove a failure for clerks? Have Government considered that the promotion should run according to the respective seniority? If not, why not?

Mr. G. R. F. Tottenham: The answer to the first part of the question is in the affirmative. No merit roll has been introduced for storemen.

FILLING UP OF VACANCIES SINCE THE INTRODUCTION OF THE STOREMEN SCHEME IN THE INDIAN ARMY ORDNANCE CORPS.

886. *Shaikh Sadiq Hasan: (a) Is it a fact that certain vacancies are reserved by the Director of Ordnance Services, Indian Army Ordnance Corps, for outsiders and some for graduate storemen? If so, will any vacancy be left for those who have spent years in serving the department, and has any vacancy been given to the non-graduate storemen since the introduction of the scheme?

(b) Is it right that 25 per cent. of the vacancies of British non-commissioned officers will be filled by civilian assistant storekeepers? If so, how many assistant storekeepers have been appointed from 81st March, 1928 to 81st March, 1982, and also how many vacancies have been given to the outsiders since the introduction of the storemen scheme?

Mr. G. R. F. Tottenham: (a) I presume that the Honourable Member is referring to vacancies in the cadre of Assistant Storekeepers. Vacancies are at present reserved for outsiders and graduate storemen, but in future it is proposed to make these appointments only by promotion from the storeman grade. No non-graduate storeman has so far been appointed as an Assistant Storekeeper.

(b) The answer to the first part is in the affirmative. 22 Civilians have been appointed Assistant Storekeepers during the period referred to by the Honourable Member. Three outsiders have been appointed Assistant Storekeepers since the introduction of the Storeman Scheme in 1980.

APPOINTMENT OF HINDUS AND MUSLIMS AS STOREMEN IN THE INDIAN ARMY ORDNANCE CORPS.

887. *Shaikh Sadiq Hasan: How many Muslims and Hindus have been appointed storemen from amongst, (1) outsiders, (2) departmental men (excluding routine division clerks) and (3) permanent routine division clerks in the Indian Army Ordnance Corps?

Mr. G. R. F. Tottenham: (1) 53 Hindus and 19 Muslims.
(2) 42 Hindus and 14 Muslims.
(3) 13 Hindus and 8 Muslims.

GRIEVANCES OF BRITISH INDIAN FAMILIES SETTLED IN NEW ZEALAND.

888. *Shaikh Sadiq Hasan: (a) Are the Government of India aware that a large number of British Indian families are settled in the various towns of New Zealand?

(b) Do the Government of India know that there are serious complaints against the harsh treatment which the Indian settlers are receiving at the hands of the white people of New Zealand?

(c) Is it a fact that in New Zealand, and particularly in Pukekohe, Indians are not allowed into the cinemas?

(d) Are Government aware that the "White New Zealand League" is persistently carrying on a vehement propaganda of anti-Asiatic movement in New Zealand?

(e) Are Government aware that in pursuance of the said anti-Asiatic movement hand-bills and pamphlets are published in New Zealand to preach complete boycott of Asiatics in general and Indians in particular?

(f) Do the Government of India know that one Abraham Walley Mohammed Salamanan, Indian Herbalist, carrying on his business in Auckland and Plymouth, was ruthlessly persecuted and numerous cases for damages and man-slaughter were brought against him in rapid succession in some of which he was sentenced to imprisonment and was disabled to continue his business?

(g) If the answer to any of the above question be in the affirmative, are the Government of India prepared to take proper steps to ameliorate the position of Indian settlers in New Zealand?

Mr. G. S. Bajpai: (a) So far as Government are aware, the total Indian population of New Zealand was 1,166 on the 31st March, 1931.

(b) If the Honourable Member specifies the nature of the complaints, enquiries will be made.

(c) to (e) Government have no information, but propose to make enquiries.

(f) The Honourable Member is referred to the reply given in this House on the 23rd March, 1927, to Raja Ghazanfar Ali Khan's question No. 1147, on the same subject.

(g) Does not arise. I have already indicated to the Honourable Member the action that the Government are prepared to take.

Mr. K. Ahmed: Have the Government of India got a local representative in New Zealand to take care of the Indians there or, in the alternative, to keep in touch with Indians who receive such rude and objectionable treatment as is specified by the questioner?

Mr. G. S. Bajpai: The Government of India maintain no representatives in New Zealand and, as I have already mentioned, the Government have no information that either rude or objectionable treatment is accorded to Indians.

Mr. K. Ahmed: Do Government propose, for the benefit of the country and of the people of this part of the world going to New Zealand, to take care of the Indians who are there?

Mr. G. S. Bajpai: I may remind the Honourable Member that there are no Indians going to New Zealand, and that the Indians already there are pretty well off.

Mr. Lalchand Navalrai: In view of the fact that the Government do not know of such complaints, will they make inquiries to find out the facts so as to help those who have these complaints?

Mr. G. S. Bajpai: As I have already stated, if any Honourable Member would specify the nature of the complaints that he has received, Government will make inquiries.

Mr. Lalchand Navalrai: The Government should realize that it may not be one complaint, and we ourselves may not be knowing the specific complaints; general complaints are made, and when that is so, it is I submit very necessary that the Government should make inquiries.

Mr. G. S. Bajpai: I may remind the Honourable Member that the Government of India actually sent a representative, Mr. Sastri, to New Zealand in 1922 and I happened to be associated with Mr. Sastri at the time. We did not find from those whom we met in New Zealand that there were any complaints against the Administration at all. Therefore, the onus of proving that there are complaints from Indians in New Zealand lies on those who say that such complaints exist.

Mr. Lalchand Navalrai: That is too old a question. 1922 is a long way backwards. At present there are complaints that are being made. Honourable Members are bringing these to the notice of Government, and is it not up to the Government to make inquiries and find out whether the statements reported are correct or wrong?

Mr. G. S. Bajpai: No, Sir. Government do not think that merely on the existence of general impressions whether ill-founded or well-founded there is justification for making inquiries.

Mr. Lalchand Navalrai: There are actual complaints which are not made in a vague manner. The complaints are coming from Honourable Members and I do not think Government should have any reasons to refuse the reasonable demand.

Mr. G. S. Bajpai: Sir, the only complaint to which reference is made in this question was dealt with in an answer given here in 1927. And I may mention for the information of the House that the complaint was that a gentleman who was a specialist in anniline dyes had taken to treating

human beings. Because of that he had been punished and perhaps rightly punished by the court of inquiry.

Mr. Lalchand Navalrai: But the complaint is not restricted to that complaint only?

Mr. G. S. Bajpai: There is no other specific complaint which has been mentioned by any Honourable Member or which is before the Government.

Mr. Lalchand Navalrai: A complaint may not be specifically mentioned but the general wish of the Members who put these questions is that an inquiry should be made to find the facts of the case and a positive answer given that there is no complaint.

Mr. G. S. Bajpai: I am quite sure that the House on reflection will agree with me that unless there is a reasonable ground for thinking that there are complaints in New Zealand, there is no point in making an inquiry.

(Mr. Lalchand Navalrai wanted to put another supplementary question, but Mr. President called him to order.)

Mr. B. Das: Do I take it, Sir, that in the opinion of the Honourable Member, an Indian has got an equal right of citizenship in New Zealand?

Mr. G. S. Bajpai: Not only is it, Sir, a question of opinion, but I am prepared to prove it to the Honourable Member by reference to the relative electoral law that an Indian in New Zealand has exactly the same rights as anybody else.

Mr. K. Ahmed: In view of the fact that the Honourable Member has not specifically denied it *seriatim* in his reply to all the clauses of the question, and also in view of the fact that it is implied from the answer given that in New Zealand they are preaching a complete boycott of Asiatics in general and of Indians in particular, do I take it that these matters have not been brought to the notice of the Government and am I to understand that Government are determined not to take steps to give relief to the Indian people? Is that the reason why the Honourable Member, the Secretary of the Department, is giving his answers in this manner and refuses to take notice of the complaints brought forward by Honourable Members that there has been a mal-treatment of Asiatics and particularly of Indians?

Mr. G. S. Bajpai: I am afraid it is not always easy to follow my Honourable friend's *impromptu* incoherences, but I have already stated that if any Honourable Member in the House will tell me that there is some specific grievance either of an individual Indian or of more than one individual, Government will make inquiries.

Mr. Lalchand Navalrai: Will the Honourable Member be pleased to answer if it is a fact that Indians are not allowed to enter New Zealand?

Mr. G. S. Bajpai: I have already mentioned myself that since 1918 the Government of India themselves had agreed that there shall be no further emigration from India into New Zealand.

ABOLITION OF THE TRAFFIC AUDIT BRANCHES OF RAILWAY AUDIT OFFICES.

889. ***Shaikh Sadiq Hasan:** (a) Will Government be pleased to state what proposals for retrenchment in the Railway Audit Department are under the contemplation of the authorities?

(b) Is it a fact that the Traffic Audit Branches of all Railway Audit Offices will be abolished?

(c) If so, by what other statutory audit do Government propose to watch the interests of the rate-payers in regard to railway earnings?

The Honourable Sir Alan Parsons: The whole subject of limitation of audit and of retrenchment in the Railway Audit Department is at present under consideration.

IMPROVEMENTS EFFECTED IN THE ACCOUNTS OR ADMINISTRATION OF DIFFERENT RAILWAYS AT THE INSTANCE OF THE AUDIT DEPARTMENT.

890. ***Shaikh Sadiq Hasan:** (a) Will Government please state the number and money value of the objections raised by the different Traffic Audit Branches for 1980-81? How many of these were admitted and how many were rejected together with their money value?

(b) Amongst the above are there any savings of a recurring nature effected at the instance of the audit department; if so, what is their amount?

(c) What improvements have been effected in the accounts or administration of different railways at the instance of the audit department?

The Honourable Sir Alan Parsons: (a) 28,186 objections of a money value of Rs. 5,67,548 were raised during 1980-81 by the different Traffic Audit Offices. Of these, 22,171 objections of money value amounting to Rs. 4,69,178 were admitted, and the remaining objections have either been rejected or are still the subject of correspondence. These figures represent the total objections and include both undercharges and overcharges.

(b) The information is not available. The Railway Audit Department estimates, however, that the total recurring savings effected during the past two years amount to nearly Rs. three lakhs per annum.

(c) Minor improvements have been effected at the instance of audit, but I have not got the details.

ACCOUNTS OF STATIONS AUDITED BY THE NORTH WESTERN RAILWAY STATUTORY TRAFFIC AUDIT.

891. ***Shaikh Sadiq Hasan:** Is it a fact that the accounts of only 15 stations out of 1,100 are audited by the North Western Railway Statutory Traffic Audit?

The Honourable Sir Alan Parsons: Yes. The accounts of five major and ten minor stations selected at random are at present audited every month.

AMALGAMATION OF THE AUDIT AND ACCOUNTS DEPARTMENTS IN THE RAILWAYS.

892. ***Shaikh Sadiq Hasan:** (a) Will Government kindly state the increase in expenditure on account of the separation of audit from accounts?

(b) Is it a fact that this increase in expenditure would have been considerably more, if lower scales of pay had not been introduced in the Accounts Department?

(c) Are Government prepared to consider the question of the re-amalgamation of these two departments and the introduction of the lower scales of pay introduced in the Accounts Department in the joint Audit and Accounts Department?

(d) In view of the present financial stringency, are Government prepared to re-consider the question of abolishing the separation of audit and accounts departments in the railways?

Mr. P. R. Rau: (a) I would refer my Honourable friend to the answer given by my predecessor to a similar question by Mr. Gunjal on the 4th March.

(b) I readily agree that if higher scales of pay had been allowed for the Accounts Department, the cost would have been greater.

(c) and (d). The question of amalgamation has recently come under the careful consideration of Government, and it has been decided to continue the present system of having an organisation for accounting and internal check as an integral part of the Railway Administration with a separate independent audit under the Auditor General, but to take all possible steps to reduce expenditure in both the departments.

PERMANENT WAY INSPECTORS ON THE NORTH WESTERN RAILWAY.

893. ***Shaikh Sadiq Hasan:** (a) Will Government please state how many men are working as P. W. Is. in the North Western Railway?

(b) Out of them how many are Muslims, Hindus, Sikhs and others?

(c) Are Government aware of the fact that some of the S. I. Ws. after passing their plate layers' examination, were sent to the Walton Training School for P. W. I. examination?

(d) Will Government be pleased to state how many out of the above mentioned successful candidates have been appointed P. W. Is.?

Mr. P. R. Rau: (a) 124.

(b) Government regret they are unable to supplement the information given in the annual administration report of Indian railways regarding the communal composition of railway staff by details regarding individual offices or classes of staff.

(c) It is presumed that these questions refer to S. W. Is. (Sub-Way Inspectors) who are way subordinates employed on Permanent Way maintenance and are now called Assistant Way Inspectors, Grade I, and not to S. I. Ws. (Sub Inspectors of Works) who are works subordinates. If so, the reply is in the affirmative.

(d) No Assistant Way Inspector, referred to in paragraph (c) above, who qualified in the School, has been permanently promoted as Permanent Way Inspector as no permanent promotions to that grade have been made since 1981; but four such qualified Assistant Way Inspectors are officiating as Permanent Way Inspectors against leave vacancies.

PERMANENT WAY INSPECTORS ON THE NORTH WESTERN RAILWAY.

894. *Shaikh Sadiq Hasan: Are Government aware that the apprentice P. W. Is. on the North Western Railway, after passing examinations, have been made second grade A. W. Is., but those S. I. Ws. who, beside their long experience, have passed their P. W. I. examination from the Walton Training School, have been deprived of the above-mentioned promotion so far? Will Government give reasons for this distinction?

Mr. P. R. Rau: I understand that Apprentice Permanent Way Inspectors, after the successful completion of their training, are recruited on 12 months' probation against vacancies of the Assistant Way Inspectors, Grade II, S. W. Is. (now called A. W. Is., Grade I) are recruited from the rank of mates, mistries and time-keepers; in view of the difference in the standard of education of the apprentice class and the promoted man, the latter are not promoted as A. W. Is., Grade II.

APPOINTMENT OF PERMANENT WAY INSPECTORS ON THE NORTH WESTERN RAILWAY.

895. *Shaikh Sadiq Hasan: Is there any fixed proportion on the North Western Railway for appointments to P. W. I. posts between apprentice P. W. Is. and S. I. Ws. who have passed the P. W. I. examination? If not, do Government propose to fix a ratio?

Mr. P. R. Rau: I understand the proportion of promotions from the two grades are roughly as follows: 8 from Grade II and 1 from Grade I.

APPOINTMENT OF PERMANENT WAY INSPECTORS ON THE NORTH WESTERN RAILWAY.

896. *Shaikh Sadiq Hasan: Are Government prepared to consider the question of promoting A. W. Is., Grade I on the North Western Railway—who have qualified in the duties of P. W. I. first locally and then from the Walton Training School and who have also worked for one year as P. W. Is.—to A. W. I. second grade like the apprentice P. W. Is. who are getting this grade?

Mr. P. R. Rau: I understand that promotion from Grade I to Grade II Assistant Way Inspector is not usual, the reason being that Mates, Mistries and Time Keepers do not pass the same examination as that taken by Apprentice Permanent Way Inspectors at the end of their apprenticeship. The Agent, North Western Railway, has been asked to re-examine the matter.

OFFICIATING CHANCES OF PERMANENT WAY INSPECTORS FOR MUSLIMS IN LAHORE DIVISION OF THE NORTH WESTERN RAILWAY.

897. *Shaikh Sadiq Hasan: Is it a fact that in the Lahore Division, North Western Railway, the officiating chances of P. W. Is. are not being given now-a-days to Muslims who are juniors who are juniors get such chances?

Mr. P. R. Rau: The Agent reports that arrangements are made from qualified men in order of seniority based on the whole line and subject to the proportions given in the reply to question 895 above, except for short vacancies up to two months, which Divisions are permitted to fill by the most convenient local arrangements. I have brought this question to his notice in order that he may see that no grounds for such an allegation are allowed to exist.

(Mr. S. G. Jog rose to put question No. 898 standing in the name of Lieut.-Colonel Sir Henry Gidney.)

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order; this question cannot be asked.

Mr. S. G. Jog: I would like to raise a point of order, Sir. When the notice of the question was given, the Honourable Member who gave notice of it was a Member of the House and, in the Simla Session, in order to suit the convenience of other important work, these questions were held over. Fortunately or unfortunately, the Member who had put the question has gone to the Round Table Conference and I would like to point out that it will mean a great hardship if this question is not answered. In view of these special circumstances, I may be allowed to put it.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order, If the Honourable Member feels so strongly on the subject, he can give notice of that question himself. The Honourable Member who gave notice of that question has ceased to be a Member of the Assembly and has, therefore, lost the right of interpellating Government.

†898. *

USE OF ONIONS IN JAIL DIET.

899. *Pandit Satyendra Nath Sen: (a) Is it a fact that the onion forms an important part in the preparation of food of jail prisoners in the centrally administered areas?

(b) Are Government aware that the onion is forbidden for high caste Hindus by their *Shastras*?

(c) Are Government prepared to discontinue the use of the onion in jail diets for high caste Hindus or allow any prisoner who has objection to the taking of onions to cook his own food?

† This question was not answered as the Honourable Member (Lieut.-Colonel Sir Henry Gidney) has since resigned.

The Honourable Mr. H. G. Haig: (a) The onion is of antiscorbutic value and is, therefore, generally included in the prescribed scale of dietary for prisoners, but it is not supplied in all Jails in the centrally administered areas.

(b) I do not wish to question the authority of the Honourable Member in matters relating to the *Shastras*.

(c) I am not aware that objections have been taken to the use of onions in jail dietary. Indeed I am informed that the Bengali prisoners who have been sent to the Andamans have specially asked for them.

EXEMPTION OF POLITICAL PRISONERS FROM CALLING OUT "SARKAR SALAAM".

900. ***Pandit Satyendra Nath Sen:** (a) Are Government aware that even the most docile of political prisoners generally has strong objection to "Sarkar Salaam"?

(b) Is it a fact that insistence on the above by the jail authorities has often given rise to a fracas within jails?

(c) If so, do Government propose to revise the jail code so as to exempt the political prisoners from the above formality?

The Honourable Mr. H. G. Haig: (a) No.

(b) No.

(c) Does not arise.

FUNCTIONS OF THE MEMBERS OF THE CENTRAL ADVISORY COMMITTEE FOR RAILWAYS.

901. ***Pandit Satyendra Nath Sen:** (a) What is the exact function of a member of the Central Advisory Committee for Railways?

(b) How many times does that committee generally meet during a year?

(c) Is a member of the said committee allowed to travel free on the various Railways to collect first-hand information relating to them?

(d) If not, do Government propose to make such arrangements in order to give the members better facilities for inspection and advice?

Mr. P. R. Rau: (a) To advise on such important questions of policy as may be placed before it by the Member in charge of railways.

(b) It depends on the business before it.

(c) and (d), No.

ADMISSION OF MOPLAHS IN THE ARMY.

902. ***Mr. Uppl Sahab Bahadur:** (a) Will Government be pleased to state whether there is any ban against the admission of Moplahs in the army; if so, why?

(b) If not, why is admission refused to them in the Territorial Force?

Mr. G. R. F. Tottenham: (a) Moplahs are not recruited for the Indian Army. They were given a trial in the regular Army before the War and the experiment was not a success.

(b) Moplahs have not been recruited for the Indian Territorial Force owing to objections on the part of the Local Government.

Mr. K. Ahmed: In view of the fact that the Honourable Member's Department did not object to the wholesale release of the Moplah prisoners and in view of the fact that the riots in which they took part occurred more than 12 years ago, do the Government realise that the Moplahs of the present day are quite a different people from the Moplahs of the days of the riots, and will the Government change their policy and recruit these poor people to the Army?

Mr. G. R. F. Tottenham: I am quite prepared to address the Local Government on the subject and ask whether they still adhere to their former objections or whether they would now be prepared to withdraw them.

Mr. Uppl Sahab Bahadur: What are the reasons for excluding the Moplahs even from the Territorial Force? What are the reasons given by the Local Government?

Mr. G. R. F. Tottenham: The Honourable Member should be able to guess the reasons for himself.

1908.*

PERFORMANCES STAGED BY THE V. J. BHARAT THEATRICAL COMPANY OF BOMBAY IN DELHI.

904. ***Mr. Gaya Prasad Singh:** (a) Are Government aware that a theatrical company by name "The V. J. Bharat Theatrical Company of Bombay" has staged performances in a local theatre at Ajmeri Gate, Delhi, on 9th, 10th, 11th and 12th July, 1932, "India now and then"; and on 19th, 20th and 21st August, 1932, "Dukhia Bharat"? If so, who are the authors?

(b) Are Government aware that Government servants were obliged to purchase tickets and to see the performances?

(c) Is it a fact that Sardar Mehtab Singh, Industrial Surveyor, has managed these performances, and that most of the actors were Government servants?

(d) Is it a fact that arrangements were made for this Company by the district authorities to tour in the rural areas of Delhi; and are Government aware that certain prostitutes were forced to take part with a view to making the shows more attractive?

(e) Is it a fact that licence to sell liquor was temporarily sanctioned by the local authorities?

(f) Is it a fact that Sheikh Abdul Samad, City Magistrate, Delhi, was on duty at the time of the performances?

(g) Is it a fact that these performances were picketed by the Congress volunteers? If so, how many have been arrested and convicted; and under what emergency powers was this picketing declared unlawful?

* This question has already been answered; see page 1485 of L. A. Debates, dated 28th September, 1932.

The Honourable Mr. H. G. Haig: (a) "India Now and Then" was staged by the Lakshmi Kanta Theatrical Company on the 9th, 10th, 11th and 12th July and "Dukhin Bharat" was staged by the Vijay Bharat Theatrical Company on the 19th, 20th, 21st and 22nd August. The name of the author is Sayed Jaffar Husain, a professional dramatist.

(b) No. This was not the case.

(c) No.

(d) No arrangements have been made by the District authorities beyond those relating to adequate police protection for which requests were made by the companies. There is no truth in the statement made in the second part of this question.

(e) The manager of one of the companies applied for the grant of a temporary liquor license for two days which was sanctioned, but was not utilised.

(f) No.

(g) I would refer the Honourable Member to my reply given on the 15th September to his question No. 278.

Mr. Gaya Prasad Singh: With regard to the answer to part (c), may I know why sanction for the sale of liquor was granted?

The Honourable Mr. H. G. Haig: I imagine there was no objection to that. What objection does the Honourable Member suggest?

Mr. Gaya Prasad Singh: Does the Honourable Member realise that the selling of liquor would inevitably result in encouraging people to take liquor? (Laughter.)

The Honourable Mr. H. G. Haig: I should not be prepared to deny the suggestion of the Honourable Member.

BONUS PAID BY MR. HAYMAN TO CHARITABLE BODIES FROM THE INCOME OF THE HAYMAN-MOHINDRA PUNCHING MACHINES.

905. ***Mr. M. Maswood Ahmad** (on behalf of Dr. Ziauddin Ahmad): (a) With reference to the statement made by Government in reply to a supplementary question to question No. 119 answered on the 8th September, 1982, will Government be pleased to state the names of the charitable bodies to which Mr. Hayman gave his bonus from the Hayman-Mohindra punch together with the amount and date of payment?

(b) What is the total purchase value of the Hayman-Mohindra punches, which Government have so far paid?

(c) What is Mr. Hayman's share in the bonus?

(d) Who fixed the price of this punch?

(e) Who is Mohindra whose name is associated with the punch?

Mr. P. B. Rau: (a) When I stated in reply to the supplementary question that Mr. Hayman had offered to devote his share of the royalty received by him when he was a Member of the Railway Board, to

charitable purposes, I was speaking from my memory. I have since looked into the files and I can give somewhat more detailed information. I find that in March, 1929, Mr. Hayman stated that he did not wish to receive his share of royalty on any sales of the machine to railways, the property of the State, during the time he was Member of the Railway Board, and if for technical reasons payment was required to be made to him as otherwise it would be paid to Mr. Mohindra, he would receive the payment and would either refund it to Government or pay it over to the Indian Railways Athletic Association. Government noted this proposal of his, but did not make it a condition on which he was permitted to receive his share of the royalty. Government did not, therefore, think it necessary to obtain information as to how exactly Mr. Hayman dealt with the amount received by him; but Mr. Hayman has asked me to make it clear that he has taken no personal gain from the sale of the punches and none were purchased after he became a Member of the Railway Board and he has received no royalties thereafter. The royalties received by him on purchases made before his appointment as Member of the Railway Board amounted to a little over Rs. 10,000. Of this, he has made a payment of Rs. 2,600 to the Indian Railways Athletic Association and the Indian Hockey Tour Fund. The balance has been utilised in helping railway employees in distress.

(b) The total purchase price is, including punches, refills, date box, etc., as I have already explained, Rs. 2,48,632-13-0.

(c) In December, 1928, when asking the Government's permission to retain his share of the royalty of 15 per cent. of the orders placed by railways for the above punches, Mr. Hayman stated that the arrangements between him and his partner were that of the royalty the first 10,000 rupees were to be paid to Mr. Mohindra to cover preliminary expenses and the balance was to be divided equally between himself and Mr. Mohindra.

(d) The price of the punch must have been fixed by the Agent, East Indian Railway, by negotiation with Messrs. Martin & Company.

(e) Mr. Mohindra was, as I have already explained, an Engineer in the service of Messrs. Martin & Company at the time.

TENURE OF OFFICE OF THE PRESIDENT, RAILWAY ADVISORY COMMITTEE.

906. ***Mr. M. Maswood Ahmad** (on behalf of Dr. Ziauddin Ahmad): Is the President of the Railway Advisory Committee appointed permanently, or is he appointed for a limited period? If permanently, is there any age limit for appointment and retirement?

Mr. P. B. Rau: The Committee is itself on a temporary footing and, naturally, so is the President.

NUMBER OF BENGALIS DETAINED UNDER BENGAL REGULATION III OF 1818.

907. ***Mr. S. C. Mitra:** Will Government be pleased to state the total number of men belonging to the province of Bengal detained without trial under Bengal Regulation III of 1818?

The Honourable Mr. H. G. Haig: 21.

†908.*—916.*

**APPOINTMENT OF LILLOOAH *ex*-APPRENTICES AS WARD KEEPERS, ETC.,
ON THE EAST INDIAN RAILWAY.**

917. ***Mr. S. O. Mitra:** (a) Will Government please state whether the *ex*-apprentices (mechanical) of the East Indian Railway Workshop, Lillooah, are qualified for the posts of Ward Keepers and Assistant Ward Keepers under the Controller of Stores, East Indian Railway, and whether they have been taken in as such? If so, what is the number of Europeans, Anglo-Indians, and Indians taken in as such?

(b) Is it a fact that two European or Anglo-Indian *ex*-apprentices of Lillooah Workshop, who failed in the Technical School, have been taken in as Ward Keeper and Assistant Ward Keeper, while no Indians have been appointed? Is it a fact that better qualified Indian *ex*-apprentices of 1980 were available?

(c) If the answer to part (b) above be in the affirmative, will Government please state the reasons for not selecting any successful Indian *ex*-apprentices of 1980 and what were the grounds for selecting the two unsuccessful Europeans or Anglo-Indians? Are Government prepared to take steps to replace them by successful *ex*-apprentices who are waiting? If not, why not?

(d) Do Government propose to take in such apprentices as Ward Keepers and Assistant Ward Keepers in all future cases and issue orders to the Controller of Stores to this effect? If not, why not?

Mr. P. R. Rau: With your permission, Sir, I will reply to questions Nos. 917—924 together. I have called for certain information and will lay a reply on the table, in due course.

APPOINTMENT OF APPRENTICES OF THE LILLOOAH WORKSHOPS.

†918. ***Mr. S. O. Mitra:** (a) With reference to the answer to my starred question No. 468 of 5th March, 1980, will Government please state the number of vacancies which occurred in Lucknow and Tatanagar Workshops since 1980, and what is the number of European, Anglo-Indian and Indian *ex*-apprentices of Lillooah Workshop who have been taken in as such?

(b) Is it a fact that one European or Anglo-Indian *ex*-apprentice of Lillooah Workshop of 1980, who failed in the Technical School, has been appointed in Tatanagar Workshop in 1980? Is it a fact that better qualified Indians were available?

(c) If the answer to part (b) above be in the affirmative, will Government please state the reasons for not selecting any successful Indians of the 1980 batch and what were the grounds for selecting the unsuccessful European or Anglo-Indian for the post?

(d) Do Government propose to keep a waiting list of the *ex*-apprentices with the Chief Mechanical Engineer so that they may be called to fill the vacancies in the workshops under him? If not, why not?

† These questions were withdrawn by the questioner.

‡ For answer to this question, see answer to question No. 917.

**WAITING LIST OF MECHANICAL APPRENTICES TRAINED AT THE EAST INDIAN
RAILWAY WORKSHOP, LILLOOAH.**

†919. ***Mr. S. O. Mitra:** Will Government please lay on the table a copy of the waiting list of the mechanical apprentices who completed their training from the East Indian Railway Workshop, Lillooah, since 1980?

**APPOINTMENT OF APPRENTICES IN THE PRODUCTION DEPARTMENT OF THE
LILLOOAH WORKSHOPS.**

†920. ***Mr. S. O. Mitra:** (a) With reference to the answer to my starred question No. 424 (b) of 16th September, 1981, will Government please state:

(a) whether it is a fact that one *ex*-apprentice of 1981, who passed in the second division, has been appointed in the Production Department?

(b) whether it is a fact that one *ex*-apprentice of 1980, who passed in the first division, worked in the Production Department for a longer period than all other apprentices;

(c) whether it is a fact that the Mechanics and Chargemen who are working in the Production Department had no training in that Department;

(d) if the answers to parts (a) and (b) above be in the affirmative, the reasons for selecting the *ex*-apprentice of 1981, in preference to the *ex*-apprentice of 1980; whether Government are prepared to appoint the latter when the next vacancy occurs; if not, why not?

(e) if the answer to part (c) be in the negative, whether Government will please lay on the table the names of the Mechanics and Chargemen who are working in the Production Department with the particulars of their training and service?

**RACIAL DISCRIMINATION IN THE APPOINTMENT OF APPRENTICES IN THE
LILLOOAH WORKSHOPS.**

†921. ***Mr. S. O. Mitra:** (a) Is it a fact that one Anglo-Indian who completed his apprenticeship training from the East Indian Railway Electrical Department (Power House), Lillooah, has been appointed as a mechanic in the Train Lighting shop in the Carriage and Wagon Department, Lillooah?

(b) Is it a fact that two Europeans or Anglo-Indians were first appointed as apprentice Train Examiners in the East Indian Railway Workshop, Lillooah, and on the merit of their training for a few months only they were taken in, after the abolition of that system, as mechanics in Millwright and Forge and Smithy Shops?

(c) If the answer to parts (a) and (b) be in the affirmative, will Government please state the reasons for not selecting any mechanical hands and the grounds for selecting those Europeans or Anglo-Indians for the posts who had no mechanical training?

(d) Do Government propose to take steps without further delay to replace them by mechanical hands who completed five years' course under them and who are waiting? If not, why not?

† For answer to this question, see answer to question No. 917.

MECHANICAL APPRENTICES IN THE PRODUCTION DEPARTMENT OF THE LILLOOAH WORKSHOPS.

†922. *Mr. S. C. Mitra: (a) Will Government please lay on the table the names of all the mechanical apprentices who worked under the Production Engineer in the East Indian Railway Workshop, Lillooah, with their period of training and result (percentage of marks) in the Technical School?

(b) Is it a fact that all Mechanical Apprentices work in the Production Department in the East Indian Railway Workshop, Lillooah? Is any mechanical work done by them there?

(c) If the answer to the latter portion of part (b) be in the negative, do Government propose to stop such practice without further delay? If not, why not?

RACIAL DISCRIMINATION IN THE APPOINTMENT OF APPRENTICES IN THE LILLOOAH WORKSHOPS.

†923. *Mr. S. C. Mitra: (a) Is it a fact that in spite of the assurance given in reply to my starred question No. 424 (d) of 18th September, 1931, arrangements have been made to appoint two Anglo-Indians (one of whom failed in the Technical School), ignoring the claims of better qualified Indian ex-apprentices who are waiting?

(b) If the answer to part (a) be in the affirmative, are Government prepared to appoint the successful ex-apprentices who are waiting? If not, why not?

MECHANICS, CHARGEMEN, JOURNEYMEN AND DRAUGHTSMEN APPOINTED IN THE EAST INDIAN RAILWAY WORKSHOPS AT LILLOOAH AND JAMALPORE.

†924. *Mr. S. C. Mitra: Will Government please lay on the table the names of the Mechanics, Chargemen, Journeymen and Draughtsmen who were appointed in the East Indian Railway Workshops at Lillooah and Jamalpore with their dates of appointments, starting salaries and technical education?

†925.

POSTING OF BATTALIONS IN THE BENGAL PRESIDENCY.

†926. *Mr. S. C. Mitra: With reference to the communiqué issued by the Government of India with regard to the posting of some battalions in Bengal Province to meet the terrorist movement there, will Government be pleased to state:

- (a) whether the Government of Bengal have requisitioned the assistance of such additional forces for Bengal;
- (b) whether any public body or organisation or any public men of Bengal have asked for such military assistance for the province; and

† For answer to this question, see answer to question No. 917.

‡ This question was withdrawn by the questioner.

- (c) whether the Government of India have resolved upon the posting of the battalions on realising that the provincial police and military forces are not sufficient to cope with the terrorist menace in the province?

The Honourable Mr. H. G. Haig: (a) Yes.

(b) No.

(c) The military forces are not intended to carry out the duties of the police. They have been sent in order to encourage Government servants and the large body of well disposed citizens, and to demonstrate to the terrorists that Government have ample forces at their disposal.

ARRANGEMENTS FOR THE COLLECTION OF INCOME-TAX IN CALCUTTA ON INCOMES BELOW RS. 2,000.

927. *Mr. S. C. Mitra: Will Government be pleased to state:

- (a) in what proportion the number of the income-tax assesses in Calcutta has increased since the minimum taxable income has been lowered to Rs. 1,000 per annum;
- (b) what steps they have taken to cope with the increased collections in Calcutta;
- (c) what additions they have made to the Treasury staff at Charnock Place to cope with the rush of daily payers at the counters; and
- (d) whether representations from the public have reached them complaining about the inconveniences and delays experienced by them when making payments?

The Honourable Sir Alan Parsons: (a) There has been an increase of about 60 per cent. in the number of assesses in Calcutta owing to the lowering of the minimum taxable limit.

(b) The extra staff appointed to cope with the extra work includes 16 Income-tax Officers, 3 Examiners, 81 clerks and 19 inferior servants.

(c) The Government of Bengal propose to appoint four clerks in the Calcutta Treasury to cope with the increased work.

(d) No.

Mr. Lalchand Navalrai: Is there any likelihood that this standard of assessing which has been lowered will be done away with?

The Honourable Sir Alan Parsons: The Honourable Member must not ask me to prophesy.

Mr. Lalchand Navalrai: The Honourable Member must be knowing how much expenditure is incurred in collecting the tax and whether it is profitable to continue this low standard of assessment and also whether there is any necessity to retain this.

(No answer.)

PAYMENTS ON HALF PORTIONS OF CURRENCY NOTES.

928. *Mr. S. O. Mitra: (a) With reference to the recent Press Communiqué issued by the Controller of Currency, Calcutta, that half value only will be paid on the half note which bears the complete undivided serial letter and number with effect from 1st November, 1982, will Government be pleased to state whether no payments will be made on the other half of the currency note which has been mutilated or destroyed?

(b) Is it a fact that the half-note will be current in the market for half-value just as any full note?

(c) Are Government aware that the communiqué has created a panic and a misapprehension in the minds of the public and the business men? If so, do they propose to remove the same? If not, why not?

(d) Is there any reason for the rigid and stricter enforcement of the rules regarding refund of cut notes and is it proposed to consider certain cases as special cases for refunds? If so, in what cases?

(e) Is it proposed to issue a fresh communiqué regarding the refund of cut notes stating the rules more clearly and precisely? If not, why not?

The Honourable Sir Alan Parsons: (a) This is correct.

(b) No.

(c) No.

(d) The attention of the Honourable Member is invited to Finance Department Resolution No. F-20-XI-F. of the 15th October, 1925, which explains in detail the object of the rules. The rules have not been altered. The object of the recent Press Communiqué was merely to give ample warning that certain discrepancies in their administration in different currency offices would be discontinued. Special cases will of course be considered in accordance with the rules.

(e) No, the Government of India consider that the purport of the rules is quite clear.

DISTRIBUTION OF SEATS ACCORDING TO THE COMMUNAL AWARD.

929. *Mr. S. O. Mitra: Will Government be pleased to state:

(a) what the percentage of population of Hindus and Muhammadans is in the different provinces of India;

(b) what the percentage of seats allotted to Hindus and Muhammadans is in the different provinces according to the recent Communal Award; and

(c) what was the recommendation of the various Provincial Governments and of the Government of India regarding the distribution of seats to these communities?

The Honourable Sir Brojendra Mitter: (a) The Honourable Member is referred to Table D of the Census Tables published with the Home Department Resolution No. F-45/18/81-Public, dated the 18th April, 1982, a copy of which is available in the Library of the House.

(b) The Honourable Member is referred to the decision itself.

(c) The decision was one of His Majesty's Government and I am not in a position to supply the Honourable Member with any information in this respect.

REMOVAL OF LALA JUGAL KISHORE KHANNA FROM THE MEMBERSHIP OF THE DELHI MUNICIPAL COMMITTEE.

930. *Mr. S. O. Mitra: (a) Will Government be pleased to state whether it is a fact that Lala Jugal Kishore Khanna, Advocate, has been removed from the membership of the Delhi Municipal Committee (to which he was elected by the suffrage of the electors) for being convicted under section 17 of the Criminal Law Amendment Act?

(b) Is it a fact that, in reply to the Deputy Commissioner of Delhi who had called upon him to explain why he should not be removed from the Municipal Committee, Mr. Khanna stated that he was summarily convicted on the charge that he was a member of the Delhi Congress Committee which association was a part of the Indian National Congress which has not yet been declared an unlawful body and that "at the worst the District Congress Committee had adopted a method of political protest which it honestly believed was warranted by the inherent constitutional rights of the subjects but which the Government regarded as an interference with law and order"? If so, is it a fact that for the above reply he was removed from the Municipal Commissionership of Delhi?

Mr. G. S. Bajpai: (a) Yes.

(b) Yes. Lala Jugal Kishore Khanna was removed from membership of the Municipal Committee by the Chief Commissioner, Delhi, under the concluding portion of section 16 (1) (a) of the Punjab Municipal Act, 1911.

GRIEVANCES OF THE RAILWAY EMPLOYEES.

931. *Mr. S. O. Mitra: (a) Will Government be pleased to state whether there has been any correspondence recently between the Railway Board and the Railwaymen's Federation regarding certain grievances of the Railway employees?

(b) If so, what are their demands and which of them have been accepted by the Railway Board?

(c) Is it a fact that the Federation has given an ultimatum that if all the demands are not accepted, there is no alternative but to strike?

(d) Are Government aware that a strike in the present economic depression will be disastrous to the best interests of the country?

(e) Are Government aware that a general meeting of the Federation was held at the end of August to take stock of the preparations for the strike?

(f) What step or steps are being proposed to be taken to meet their grievances?

Mr. P. R. Rau: (a) and (c). I would refer the Honourable Member to the statement summarising the discussions between the Railway Board and the All-India Railwaymen's Federation held on the 13th and 14th June, 1982, and the Railway Board's letter No. 381-L., dated 2nd August, 1982, and containing the decisions of the Government of India on suggestions made by the Railwaymen's Federation, copies of which will be found in the Library of the House.

(b) and (f). The main alternatives to the method of discharge of surplus staff that were proposed by the Federation were:

(i) the grant of compulsory leave without pay and

- (ii) borrowing from the Depreciation Fund. These suggestions had as their object not only the avoidance of further discharges but the reinstatement of employees discharged last year. The Government of India were unable to consider any suggestions made with the object of reinstating employees discharged last year. They were also unable to accept the proposition that money should be borrowed from the Depreciation Fund in order to avoid discharging staff surplus to requirements, which would, in their opinion, amount to the grant of an un-employment dole from public revenues for the sole benefit of railway servants.

With regard to the proposal to avoid further discharges by the adoption of a method of compulsory leave by rotation, they consulted railway administrations who were generally not in favour of adopting this procedure in order to avoid discharging staff permanently in excess of requirements, though certain administrations were prepared to consider its adoption when staff were temporarily in excess of requirements and when their services were likely to be required again before long. The Government of India did not consider that it would be justifiable to ask staff who were in no danger of being retrenched and who were already subject to the emergency cut in pay to agree to the further wage out entailed by compulsory leave by rotation. While, however, they were unable to accept this suggestion of the Federation as a general alternative to discharge, they have authorised such railway administrations as wished to do so to adopt the method as an alternative in definite categories when the financial effects of both the methods were approximately the same. They have also agreed, at the request of the Federation to voluntary retirements being permitted on special terms up to the 31st October, 1982, from units in which there was no surplus but where there was a waiting list of men discharged with the object of facilitating the re-employment of the latter. Finally they have asked railway administrations, to make allowance for normal wastage and to adopt other suitable expedients to minimise discharges as far as may be reasonably possible. These, with the special terms that have been offered to induce voluntary retirements, have resulted in the anticipated number of persons to be discharged in the course of the present retrenchment being very materially reduced. While the surplus staff including those likely to become surplus in the near future was estimated in January last to be 11,959 employees the total number of employees it has so far been decided to discharge is only about 1,900. This however does not include a surplus of nearly 1,000 employees on the Bengal Nagpur Railway and 700 in the Engineering Department of the Great Indian Peninsula Railway, but it is expected that the staff to be discharged out of these surpluses will be reduced by voluntary retirements and transfers to other suitable posts, so that the total of the staff to be discharged will not, it is anticipated, exceed 8,000 employees and may be less.

(d) Government concur with the Honourable Member as regards the deplorable effects that are likely to result from a strike.

(e) Government have seen such a statement in the Press.

Mr. B. Das: Is it not a fact that there is a strike on one of the Railways in Madras? What is the cause of that strike, and has it been settled?

Mr. P. R. Rau: The strike has not yet been settled. As regards the causes of the strike, I would refer the Honourable Member to the statements that have appeared in the Press both on behalf of the strikers and on behalf of the Railway Administration.

Mr. B. Das: Have the Railway Board taken any steps to settle that strike or are they going to lock the people out?

Mr. P. R. Rau: We have not declared a lock-out; it is the strikers who started it.

Mr. B. Das: Is it going to be a fight to the finish?

Mr. P. R. Rau: I am afraid I cannot add anything to the information at present available to Honourable Members.

†932.*

FRACAS BETWEEN THE MILITARY POLICE AND THE WARDERS OF THE PATNA CAMP JAIL.

933. ***Mr. S. O. Mitra:** (a) Will Government be pleased to state whether there was a serious fracas between the Military Police and the Warders of the Patna Camp Jail as a result of which more than 15 persons were more or less injured on both sides?

(b) If so, why and how did the fight take place?

(c) Were there ill-feelings for some time before or did the quarrel take place on the spur of the moment?

(d) Had it any concern with the political prisoners lodged in the jail?

(e) What steps, if any, were taken to check the fracas by the Superintendent in charge of the camp jail?

The Honourable Mr. H. G. Haig: (a) There was a fracas in which about ten persons were injured.

(b) The fracas started at the entrance to the jail owing to the refusal of a warder, not in uniform, to stop when challenged by the sentry. This led to an altercation in which other warders and police guards joined.

† This question was withdrawn by the questioner.

(c) It is believed that there was some previous ill-feeling between some of the warders and some of the police guards.

(d) The fracas had no connection with the prisoners nor were any of the prisoners concerned in it.

(e) The Superintendent, with the assistance of the Deputy Superintendent and the Sergeant Major, stopped the fracas promptly.

† 984.*

OCCUPATION OF A FIRST CLASS COMPARTMENT ON THE KARACHI MAIL TRAIN BY ONE MR. VISHWA NADHAN, A RAILWAY EMPLOYEE.

985. *Mr. S. O. Mitra: (a) Are Government aware that Mr. Vishwa Nadhan, a Railway employee, was occupying the whole and only one available four-berth first class compartment on the Karachi mail train travelling from Lahore to Karachi on the 19th August?

(b) Was Mr. Vishwa Nadhan on duty?

(c) If the answer to part (b) be in the affirmative, will Government please state how many railway first class passes he was holding to entitle him to occupy all the four berths in the only one four-berth compartment available on that train?

(d) If the answer to part (c) be in the negative, will Government please state how and why this railway employee was allowed to occupy the whole and only one available first class four-berth compartment?

(e) Are Government aware that three first class passengers having paid three first class fares were greatly inconvenienced due to Mr. Vishwa Nadhan's occupying the whole and only one available first class four-berth compartment?

(f) Are Government aware that Mr. Vishwa Nadhan was travelling with a lady and a child below three years old?

(g) If the answer to part (f) be in the affirmative, will Government please state if they are Mr. Vishwa Nadhan's dependants?

(h) If the answer to part (f) be in the affirmative, will Government please state if the fares for the three first class berths will be recovered from Mr. Vishwa Nadhan?

Mr. P. R. Rau: (a) Mr. Vishwa Nadhan, who is a Railway employee, was occupying a four-berth first class compartment which was not, however, the only four-berth first class compartment on the train.

(b) (f) and (g). Yes.

(c) He held a metal pass which entitled him to travel with his family. The Agent, North Western Railway, reports that only two berths in the compartment were occupied by Mr. Vishwa Nadhan.

(d) Does not arise.

(e) No. As already stated there were other first class compartments.

(h) Does not arise, in view of my reply to part (c).

† This question was withdrawn by the questioner.

Mr. Lalchand Navalrai: Will the Honourable Member be pleased to state if there is a rule that in respect of occupation preference should be given by pass-holders to passengers who actually pay the fares?

Mr. P. R. Rau: There is such a rule, but it applies only to the starting station.

Mr. S. G. Jog: Is it not a fact that railway servants take unfair advantage of the privilege granted to them as a result of which ordinary passengers who pay their fares are put to inconvenience?

Mr. P. R. Rau: I am not aware of that.

Mr. S. G. Jog: Will the Honourable Member kindly inquire whether this practice does exist, for instance, if there is one berth they occupy the whole compartment?

Mr. P. R. Rau: If my Honourable friend will bring to my notice any specific instances of such cases, I will certainly inquire into them.

Mr. S. G. Jog: It is a thing which is of daily occurrence and if the Honourable Member will care to go and see things for himself at the station, he will find that there are plenty of instances every day.

Mr. S. O. Mitra: Does the Honourable Member know that even this rule that preference will be given at the starting station is not followed and generally pass-holders are given preference over the paying passengers?

Mr. P. R. Rau: I am not aware of that, but my offer to investigate any specific cases that are brought to my notice will apply to this case also.

Mr. S. O. Mitra: Will the Honourable Member take it from me that the gentleman I have named was occupying the whole compartment and did not allow others to get in?

Mr. P. R. Rau: I have been informed by the Agent of the North Western Railway that he occupied two berths only.

Mr. S. O. Mitra: Is not this information based on the statement of a person who is greatly interested in making such a statement to save himself?

Mr. P. R. Rau: I do not know what steps the North Western Railway took to get this information, but that is the information I have.

Mr. S. O. Mitra: Will the Honourable Member kindly ask the Agent of the North Western Railway to ascertain from Mr. Vishwa Nadhan whether he prevented first class passengers from entering that particular compartment on that particular day?

Mr. P. R. Rau: I will make that inquiry.

RULES FOR THE GRANT OF PASSES TO RAILWAY EMPLOYEES.

936. *Mr. S. O. Mitra: Will Government please state the rules governing the allowance of passes to railway employees on duty?

Mr. P. R. Rau: Railway employees travelling on duty are given passes in all cases without exception.

RULES FOR THE GRANT OF PASSES TO RAILWAY EMPLOYEES.

937. *Mr. S. O. Mitra: Will Government please state the rules for allowance of passes to railway employees when they do not travel on duty but they travel to go home on leave, or when they travel for pleasure?

Mr. P. R. Rau: The rules governing the issue of passes to railway employees, when on leave, vary on the different State-managed railways except as regards gazetted officers who are allowed on all these railways first class passes irrespective of any limit. As regards other staff, broadly stated, the position is as follows:

Second class passes are issued to staff on salaries in excess of a figure varying from Rs. 100 to Rs. 125 per mensem.

Inter class passes are issued to staff on salaries varying from Rs. 50 to Rs. 125 per mensem.

Third class passes are issued to staff on less than Rs. 50 per mensem.

The number of single journey passes admissible to other than gazetted officers also varies. It is higher on some railways than on others, but the general limit may be taken as about eight single journey passes each year.

RETRENCHMENT OF INDIANS IN THE IMPERIAL SERVICES.

938. *Mr. B. Das (on behalf of Sardar Sant Singh): (a) How much did Government spend for the training of every Indian in England for each of the Imperial Services since 1926?

(b) Is it a fact that instead of retiring those who have almost completed their service, young Indians who happen to be junior officers are being retrenched? If so, how many have been retrenched from each of the All-India Services and from each province?

(c) Will Government please give the names of those gentlemen who have been ear-marked for retrenchment as inefficient in each of these Services?

(d) In view of the necessity for economy, do Government propose to see that the Indian officers, for whose training they have spent huge sums, are not turned out in the place of those who have put in almost full service?

(e) Is it a fact that there are quite a good number of officers belonging to the All-India Services in each province who have almost completed their service and will soon be retiring?

(f) If the reply to part (e) be in the affirmative, is it not a fact that Government will then have to spend again for the training of new men and thus burden the Indian Exchequer?

(g) In view of the great financial stringency, do Government propose to consider the desirability of absorbing the retrenched officers belonging to each of these Services in the future vacancies before any sums are spent for the training of fresh Indian candidates? If not, why not?

The Honourable Mr. H. G. Haig: (a) I am unable to supply the information required by the Honourable Member, as its collection would involve undue expenditure of public time.

(b) to (g). I am making enquiries and hope to be able to lay some general information on the table in due course, though I do not propose to go into the case of individual officers.

REMOVAL OF GRIEVANCES ABOUT PAY AND ALLOWANCES OF THE TRAVELLING TICKET INSPECTORS AND OLD CREWMEN OF THE EAST INDIAN RAILWAY.

939. *Mr. Muhammad Anwar-ul-Azim (on behalf of Dr. Ziauddin Ahmad): When do the Railway Board propose to remove the grievances about the pay and allowances of the Travelling Ticket Inspectors and old crewmen in the East Indian Railway and settle the question?

Mr. P. R. Rau: I would invite the Honourable Member's attention to the reply given to parts (b) to (e) of his question No. 841 on the 26th September, 1932. I hope that a decision will be arrived at on this subject very shortly.

COLLIERIES OWNED BY THE STATE AND COMPANY RAILWAYS.

940. *Mr. Muhammad Anwar-ul-Azim (on behalf of Mr. A. H. Ghuznavi): (a) Will Government be pleased to lay on the table the names of the collieries owned by State Railways and of those owned by Company Railways, giving the dates on which they were purchased and the price paid for each colliery?

(b) Which of these collieries are under the direct control of Mr. Whitworth and which of them are managed by the Railways themselves?

(c) Will Government please lay on the table a statement showing, year by year, what quantities of coals were raised from each of these collieries since their purchase, giving the cost of raising?

(d) Did Government ever call for public tenders for raising contracts, and, if so, when?

(e) Will Government state the names of persons or firms to whom raising contracts had been given since the collieries were purchased, stating the rates at which they were paid, and mentioning the period for which the contracts were given?

Mr. P. R. Rau: (a) and (c). The Honourable Member is referred to Appendix B (pages 228 and 229), Volume II of the Railway Board's annual reports on Indian Railways, copies of which are in the Library.

(b) The following State Railway collieries are under the direct control of the Chief Mining Engineer:

Kargali,

Bhurkunda,

The following State Railway collieries are under the control of the Agent, East Indian Railway, but the Chief Mining Engineer has control of output and distribution and also advises the Agent, East Indian Railway, on technical matters:

Giridih.

Joint Bokaro (East Indian and Bengal Nagpur Railways).

Joint Sawang (East Indian and Bengal Nagpur Railways).

Kedla.

The following Company-managed Railway collieries are under the control of the Chief Mining Engineer:

Joint Jarangdih (Bombay, Baroda and Central India and Madras and Southern Mahratta Railways),

Talcher (Madras and Southern Mahratta Railway).

Kurasia (Bombay, Baroda and Central India Railway).

The remainder are managed by railways themselves.

(d) No.

(e) Information is being collected about the names of contractors actually holding raising contracts at present and the rates paid to them. It will be laid on the table when ready. Government regret their inability to collect similar detailed information for the past.

REPORT OF THE SELECT COMMITTEE ON THE HAJ BILL.

941. *Mr. Gaya Prasad Singh: (a) Is it fact that a report has been submitted to Government by certain members of the Select Committee on the Haj Bill? If so, are Government in a position to place a copy on the table? If not, why not?

(b) Will Government kindly state the names of the Honourable Members who submitted the report?

Mr. G. S. Bajpai: As my Honourable friend is aware, reports of Select Committees are submitted to this House. They are not submitted to Government. Government have not received any report from any member of the Select Committee on the Haj Bill.

Mr. Gaya Prasad Singh: May I know if any such report was sent by any member or members of the Haj Committee to Government?

Mr. G. S. Bajpai: That is a question which can be answered by members of the Haj Committee. I cannot answer that.

Mr. Gaya Prasad Singh: My question was, have Government received any confidential report from any member or members of the Haj Committee?

Mr. G. S. Bajpai: Government have not received any report from any member or members of the Select Committee on the Haj Bill.

Mr. Gaya Prasad Singh: My question was,—and I will repeat it again,—have Government received any report from any member or members of the Haj Committee?

Mr. G. S. Bajpai: Quite obviously, the members of the Haj Committee did submit a report.

SHORT NOTICE QUESTION AND ANSWER.

INTERVIEWS TO MR. GANDHI IN JAIL.

Mr. B. Das: Will Government be pleased to state what principles they are following in granting and refusing interviews to Mr. Gandhi, and whether they propose to relax the restrictions generally?

The Honourable Mr. H. G. Haig: The normal restrictions on Mr. Gandhi as a State Prisoner were relaxed as stated in this House on September 19th, in order that he should be accorded full facilities for discussing the problem of the Depressed Classes and endeavouring to effect an agreement with them. When this object had been attained by the agreement that was entered into by the leaders of the caste Hindus and the Depressed Classes, and when the provisions in it relating to the communal award had been accepted by His Majesty's Government, the purpose for which the facilities were granted had been served, and the exceptional treatment given for an exceptional purpose was discontinued. Government, however, continued to give certain facilities for the discussion by Mr. Gandhi of problems connected with the removal of untouchability. Recently Mr. Gandhi represented that if he was to carry out the programme which he has set before himself in regard to the removal of untouchability, it is necessary that he should have greater freedom in regard to visitors and correspondence on matters strictly limited to this question. The Government do not wish to interpose obstacles to Mr. Gandhi's efforts in connection with the problem of untouchability, which, as Mr. Gandhi has pointed out, is a moral and religious reform, having nothing to do with civil disobedience. Government have, therefore, removed all restrictions on visitors, correspondence and publicity in regard to matters which are strictly limited to the removal of untouchability. Restrictions, however, in regard to interviews of a specifically political character stand on a totally different footing. The position in regard to these remains unchanged, as is clear from the recent reply given by the Private Secretary to His Excellency the Viceroy to Maulana Shaukat Ali.

Mr. B. Das: Is it not a fact that Maulana Shaukat Ali's request for an interview with Mahatma Gandhi was not connected with the civil disobedience movement, but to bring unity into the country?

The Honourable Mr. H. G. Haig: It was not connected with a matter like the removal of untouchability which stands entirely by itself as a social and moral issue. The Government cannot permit Mr. Gandhi to take part in the discussion of ordinary political questions.

Mr. S. G. Jog: The settlement of differences between the Hindus and Muhammadans—is it a part of the civil disobedience movement, so that facilities for interview should not be allowed to Mahatma Gandhi?

The Honourable Mr. H. G. Haig: No. I have just explained in answer to a previous question that so long as Mr. Gandhi remains a State Prisoner, he cannot expect and I cannot imagine that he would request that he should be allowed to take part in the discussion of ordinary political questions.

Mr. Lalchand Navalrai: Will the Honourable Member be pleased to state if there is a real and sincere desire on the part of the Government that the differences between the Hindus and Muhammadans should be settled? If that is so, is it not a fact that it is quite necessary that as Mahatma Gandhi is carrying on and has been allowed to carry further the settlement of the question about the Depressed Classes, he should also be allowed to go into this question of Hindus and Muslims?

The Honourable Mr. H. G. Haig: So far as that matter is concerned, if Mr. Gandhi feels that he is in a position to settle this very difficult question, he has only to dissociate himself from civil disobedience activities and there will be no further restrictions.

Mr. S. G. Jog: Is it not a fact that Maulana Shaukat Ali brought to the notice of His Excellency the Viceroy that the release of Mahatma Gandhi will considerably facilitate the settling of the differences between the Hindus and Muslims?

Sir Abdulla-al-Māmūn Suhrawardy: What right had he to say that?

The Honourable Mr. H. G. Haig: That is perfectly true: it was no doubt the view of Maulana Shaukat Ali; but I would like to remind the Honourable Member that Mr. Gandhi was unable to effect any agreement between the Hindus and Muslims at the Round Table Conference.

Mr. S. G. Jog: Has not a long time passed between the Round Table Conference and today?

The Honourable Mr. H. G. Haig: Yes; but I am not sure that the elements of the problem have changed.

Mr. C. S. Ranga Iyer: Is it not a fact that Mahatma Gandhi was not able to effect an agreement at the Round Table Conference between the Depressed Classes and the caste Hindus?

The Honourable Mr. H. G. Haig: It is perfectly true that Mr. Gandhi did not at the Round Table Conference adopt the policy of a fast.

Mr. C. S. Ranga Iyer: Having given Mahatma Gandhi the opportunity of carrying on propaganda for the removal of untouchability and incidentally a diversion of attention of the country from the civil disobedience movement, will the Government not be pleased to give Mahatma Gandhi the opportunity of carrying on propaganda from within the prison to bring about communal amity and peace?

The Honourable Mr. H. G. Haig: No, Sir. As I have already explained, the question of the removal of untouchability stands entirely by itself.

Mr. C. S. Ranga Iyer: Is not the question of communal unification as good as caste unification.

An Honourable Member: It is not to the interest of Government.

The Honourable Mr. H. G. Haig: It is an important political question but the other is a social and moral issue.

Mr. C. S. Ranga Iyer: Is not the unification of the Hindu and the Muslim an important moral issue?

The Honourable Mr. H. G. Haig: No; I should say that it is essentially a political issue.

Mr. C. S. Ranga Iyer: Does the Honourable Member say that it is not a moral issue, that it is not in the higher moral interests of the country to unify these two conflicting communities?

The Honourable Mr. H. G. Haig: That may be so; but I maintain that it is primarily and essentially a political issue.

Mr. Gaya Prasad Singh: Does the Honourable Member subscribe to the doctrine of divide and rule?

The Honourable Mr. H. G. Haig: No. Every opportunity is given to anybody who wishes to bring about an agreement between the communities; and as I have already explained, Mr. Gandhi is in a position, should he so desire, to bring his influence to bear if he is prepared to dissociate himself from civil disobedience.

Mr. Gaya Prasad Singh: May I know in what sense a settlement between Hindus and Muslims is a political question, is it because it will bring about the downfall of the present system of Government?

The Honourable Mr. H. G. Haig: I should have thought that it was one of the major political questions affecting the new constitution.

Mr. M. Maswood Ahmad: Is it a fact that opportunity was given to Mr. Gandhi in the case of the Depressed Classes to settle their differences with the caste Hindus, but the same facilities were not given to Mr. Gandhi at the time of the Hindu-Muslim Unity talk and Maulana Shaukat Ali's request was rejected which would have been helpful in coming to an agreement with the Hindus?

Sir Abdulla-al-Māmūn Suhrawardy: Maulana Shaukat Ali did not threaten a fast. A fast would have done him good.

Mr. Lalchand Navalrai: Will the Honourable Member be pleased to give a direct reply to my question whether Government have really a sincere desire that there should be an agreement between the Hindus and Muhammadans? I would like to have a direct reply.

The Honourable Mr. H. G. Haig: His Majesty's Government, owing to the unfortunate failure of the different communities to come to an agreement among themselves, were forced to give an award. They have always made it abundantly clear that they would be very glad to substitute for that award any agreement which is accepted by all the parties concerned.

Mr. M. Maswood Ahmad: Is it a fact that even an interview was refused to Maulana Shaukat Ali with Mahatma Gandhi?

The Honourable Mr. H. G. Haig: Yes, certainly, because interviews on political questions are not permitted.

Mr. Lalchand Navarai: Will the Honourable Member be pleased to state, therefore, if the Government are prepared to give all facilities for the purpose of an agreement between the Hindus and Muslims? If that is so, why is it that Government do not allow Mahatma Gandhi and Maulana Shaukat Ali to bring about that compromise and get the award amended?

The Honourable Mr. H. G. Haig: Mr. Gandhi cannot expect, so long as he remains a State prisoner, to receive exactly the same treatment as he would if he were a free man.

Mr. Lalchand Navarai: My point is whether Government are sincere that the Hindus and Muhammadans should come to an agreement or not?

The Honourable Mr. H. G. Haig: I have already answered that question fully.

Pandit Satyendra Nath Sen: By the removal of restrictions placed on Mahatma Gandhi, are we to understand that the Government indirectly identify themselves with the anti-untouchability campaign?

The Honourable Mr. H. G. Haig: The Government, as I think Mr. Gandhi himself stated in the communication that was published yesterday, stand on one side in this matter.

Pandit Satyendra Nath Sen: Are Government aware that the anti-untouchability movement is inwardly directed against the basic principles of Hinduism?

The Honourable Mr. H. G. Haig: It is a matter in which the Government are not prepared to take an active part.

Mr. M. Maswood Ahmad: Is it not a fact that separate electorates for Depressed Classes was also a political question?

The Honourable Mr. H. G. Haig: That was a question which had an element of politics also in it.

Pandit Satyendra Nath Sen: In view of the expression of opinion made by the Honourable the Home Member, will the Government convene a meeting of orthodox Hindus from different provinces and elicit their opinion on this matter?

The Honourable Mr. H. G. Haig: I should prefer to leave that task to the Honourable Member himself.

DEATH OF SIR ALI IMAM.

The Honourable Sir Brojendra Mitter (Leader of the House): Before we proceed, Sir, to the business of the day, I should like to refer to a recent melancholy event for which India is today the poorer. Sir Ali Imam, to whose death, I allude, was never a Member of this Assembly, but the distinction and diversity of his record of public service fitly deserve an expression from this House of its sense of a truly national loss. This is not the place, Sir, to discuss Sir Ali Imam's eminence as an Advocate, great as it was. Here it would be more appropriate if I confine myself to the part which he played for five years as Law Member of the Executive Council of His Excellency the Governor General and to

his subsequent career as an administrator and statesman. It is no secret that as a colleague of Lord Hardinge, Sir Ali Imam had much to do with the three capital decisions of that administration, namely, the reversal of the partition of Bengal, the creation of the new province of Bihar and Orissa and the selection for the Government of India of a new Capital, namely, the historic city of Delhi. After relinquishing the office of Law Member of the Government of India, he returned to the Bar, but his legal career had frequently to be interrupted for other duties, such as Membership of the Executive Council of his own Province, Judgeship of the Patna High Court and Vice-Presidentship of the Executive Council of His Exalted Highness the Nizam of Hyderabad. The variety and the number of the high positions to which he was called afford objective proof of his versatility and exceptional ability. Those of us who had the privilege of knowing him and working with him can testify to the sincerity, charm, dignity and the uprightness which made him universally popular and universally respected. Failing health had for some years past made it difficult for him to devote to our public life the steadying influence of his ripe experience and harmonising power, of his broadminded and catholic personality. When he was invited last year to participate in the second Round Table Conference, he proceeded to London in spite of the feeble state of his health, because he put the programme of a patriotic duty above personal comfort. A few weeks before his death, he had, at the earnest request of political associates and friends, set his hand to the task of organizing in Bihar and Orissa a party which would work the new constitution in a constructive and progressive spirit. The tragedy of his death at this juncture will be poignantly felt by all those who appreciate the need today in our public life of a sane and constructive liberalism. On behalf of Government and myself, I would request you to convey to the bereaved family our profound sorrow at his death.

Sir Hari Singh Gour (Central Provinces Hindi Divisions: Non-Muhammadan): Sir, I did not think that it would fall to my lot to mourn on the floor of this House the untimely demise of my very old and esteemed friend, Ali Imam. Only the other day I was discussing with him questions of public moment, and little did I know that Ali Imam would depart from this life at the critical moment of Indian history where his mature judgment, ripe scholarship and broad sympathies with the people of India would have been an asset which it would be difficult to replace. Sir, we on this side of the House have always loved Ali Imam as an Indian first and Indian last. Both in his words and deeds, he was an Indian to the very core, and his effort throughout his life had been to live the life of an Indian. Those who know the efforts he made during the last few years to unify the Hindus and the Muslims would feel a poignant sorrow that at this moment when the unification of the two great races of India seems to be in sight, his ripe judgment and influence should not be available to the peace makers who are sitting elsewhere discussing the *pros* and *cons* of a unified India. Ali Imam was lovable friend. As an official, he performed many and varied duties, and the Honourable the Leader of the House has recounted some of them, and though he remained an official, he was approachable to all, and his advice was available to high and low alike, and that is what made Ali Imam the popular favourite ever since the time he occupied the exalted place of Law Member in the Government of India, and whether he was Law Member or the Chief Minister of Hyderabad or a Judge of the High Court or a Member of the Executive Council of his own native province

[Sir Hari Singh Gour.]

or as a member of the Bar, Ali Imam did not lose that suavity of manners, that urbanity, that feeling of friendliness towards the people of India which made him a unique character in the history of this country. Sir, every one in this House mourns the loss of Ali Imam, and we on this side of the House associate ourselves with all that has fallen from the Leader of the House.

Sir Abdul Rahim (Calcutta and Suburbs: Muhammadan Urban): Sir, in associating myself with the feeling tributes that have been paid to the memory of the late Sir Ali Imam, I have to mourn the death of a very old and dear friend of mine.

Sir Ali Imam was undoubtedly a great Indian, a great patriot; at the same time he was a very good man. Those who knew him intimately as I did, know very well how generous, charitable and kind-hearted he was. Sir, the news of his sudden death came as a shock, as has been well stated by my Honourable friend, Sir Hari Singh Gour, to all his friends. It is no exaggeration or a mere compliment to the memory of the deceased to say that Sir Ali Imam's services to India were very valuable indeed. He was a staunch nationalist at heart and he never missed any opportunity to render any service he could to the cause of his motherland. I know as a fact that the large circle of friends and relatives that Sir Ali Imam has left behind will long miss him and every one that had the privilege of knowing him will realise what a great loss his death has been to us. I associate myself with the message that is to be conveyed to his bereaved family.

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions: Muhammadan Rural): I also wish to pay my humble quota of tribute to the memory of the late Sir Ali Imam. I came to know Sir Ali Imam about 84 years ago as a student at Aligarh. After the death of the late Sir Syed Ahmad Khan, when his great successor, the late Nawab Mohsin-ul-Mulk, started the work of re-organising the Muslim community, the late Sir Ali Imam was one of those whom he selected as one of his co-operators and friends. In those days there was hardly any function at Aligarh when Sir Ali Imam did not pay a visit to that great institution, and his visit to Aligarh was always a source of great enthusiasm to the students with whom he was on very friendly and familiar terms. But more intimately I came to know him since 1906, when the Mussalmans first started their political movement in this country as a result of which the All-India Muslim League was founded, and Sir Ali Imam was one of the foundation members of the League. Since then, for a very long time we worked together on the same political platform, and I will always consider it a great honour to me that it was the late Sir Ali Imam who proposed me as the President of the All-India Muslim League sessions at Calcutta in 1927. It is no exaggeration to say that few Indians could compete with Sir Ali Imam in his love of our motherland, in his sound political judgment and his breadth of vision. The address which he delivered as the President of the All-India Muslim League at Amritsar in 1906 was a brilliant specimen of his political sagacity and acumen. He was the first Muslim Member of the Viceroy's Executive Council, and as such the part which he played in formulating the policy of the Government of India will be remembered for a long time, especially the part which he played in bringing about an amicable settlement about the unfortunate

incident of the Cawnpore Mosque. In his culture and polish of manners, Sir Ali Imam had no equals. He combined in himself the best of the eastern and western culture and virtues, and those who knew him intimately loved and worshipped him for that. It is really very unfortunate that, at this juncture in the history of our country, we have lost a man who commanded equal confidence both with the Hindus and the Mussalmans, and whose mature judgment was a source of strength to us. My heart goes forth in sympathy with his talented wife, Lady Ali Imam, his aged father, Nawab Imdad Imam, his equally distinguished and brilliant brother, Mr. Hasan Imam, and other members of the bereaved family. With these words I associate myself with the motion which has been so ably moved by, the late Sir Ali Imam's successor in office, the Honourable the Law Member.

Mr. Muhammad Yamin Khan (Agra Division: Muhammadan Rural): The late Sir Ali Imam's death is a national calamity and I associate myself with all that has been said by the Honourable the Law Member and the other Members of this House.

Mr. Arthur Moore (Bengal: European): The Members of the European Group would also like to be associated with the tribute to the memory of the late Sir Ali Imam which is embodied in the Honourable the Law Member's motion. He has reminded us of the great part that Sir Ali Imam played in the decisive events in India's history in Lord Hardinge's time. He shared, we remember, with our great Bengali statesman, Lord Sinha, the honour of being the first Indian Members of the Viceroy's Executive Council, and we remember that both those famous men have left their mark on Indian history. He was, of course, of his own community a very great ornament, but I think those of us who have followed his utterances in recent years will realise that he had also a tremendous sense of national unity, and we feel that in him India has lost one who could have been a wise counsellor in the days that are before us of constructive work under the new constitution.

Mr. K. Ahmed (Rajshahi Division: Muhammadan Rural): Sir, I join with the Honourable the Leader of the House and the Leaders of Parties in the expression of their grief at the sad demise of the late Sir Ali Imam. Sir Ali Imam was a member of the Calcutta Bar when he was appointed a Member of the Executive Council after Lord Sinha. Sir, Sir Ali Imam, when practising with us in the Calcutta High Court, used to take his seat at the same table in that part of the Bar Library where I generally sit. I was not only a practitioner with him side by side but a great friend. Next to him, his younger brother, Mr. Hasan Imam, was also a member of the Calcutta Bar before he was elevated to the Bench. There was, next to them, Sir Richard Garth and there was next to him a member of the Nawab family of Murshidabad. There was Mr. Jacob and there was also Mr. Falkner who is now the Official Assignee. He was a popular figure, charming in his manners and amiable in his dealings with the members of the Bar. He was appearing on behalf of the Government in the historic Midnapore Damage suit in the year 1911 before he became a Law Member. His activity at the Bar was seen and appreciated by the people of Calcutta and the members of the Bar. He was a very courteous gentleman, coming from a family in a village known as Neora, not far from Dinapore, in the district of Patna. His family was full of lawyers. Take for instance his uncle, the late Mr. Justice Sarafuddin,

[Mr. K. Ahmed.]

who was also in the Bench of the Calcutta High Court. He was in the enviable position of having the confidence of his community. He was only 68 years old at the time of his death. He leaves behind him five sons, his wife and his brother, Mr. Hasan Imam, who is now a leader of the Patna Bar after he retired from the Calcutta High Court bench. Sir Ali Imam and his brother were very prominent. When any difficult questions came up for solution he used to take a leading part. Sir Ali Imam was a great hero during the difficult times in the days of Lord Hardinge and when with regard to the demolition of the Machli Bazaar mosque at Cawnpore the military were called and were dispersing the mob and were patrolling the streets all round, it was an anxious time of trial. The people found it very difficult to settle the dispute and the Government, just after the transfer of the seat of Capital from Calcutta to this deserted place, were in a fix. When the feelings of the people were aroused with regard to the destruction of portions of the mosque, Sir Ali Imam went to the Machli Bazaar mosque and appeased the people in the twinkling of an eye. His personality brought peace and he poured oil on troubled waters. In the year 1906, when in Dacca the Muslim League meeting was going on about the time of the partition agitation in Bengal, Sir Ali Imam brought the Hindus and Muhammadans together and he made a memorable speech on that occasion. Then, again

(Mr. K. Ahmed sat down without finishing his speech.)

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Chair wishes to associate itself with everything that has fallen from Honourable Members. The greatest tribute that can be paid to Sir Ali Imam is that on this mournful occasion the country has unanimously recognised how great his loss in the interests of India. It is such patriotic workers who are needed in the situation which exists in the country at present and it is lamentable that his career should have been brought to a close at a juncture like this. The Chair will communicate to the relatives of the deceased the feeling of sympathy and condolence of this House.

GOVERNOR GENERAL'S ASSENT TO BILLS.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): I have the honour to inform Honourable Members that the following Bills which were passed by both Chambers of the Indian Legislature during the Simla Session, 1932, have been assented to by His Excellency the Governor General under the provisions of sub-section (1) of section 68 of the Government of India Act:

1. The Indian Emigration (Amendment) Act, 1932;
2. The Cantonments (Amendment) Act, 1932;
3. The Ancient Monuments Preservation (Amendment) Act, 1932;
4. The Trade Disputes (Amendment) Act, 1932;
5. The Port Haj Committees Act, 1932;
6. The Code of Criminal Procedure (Amendment) Act, 1932; and
7. The Tea Districts Emigrant Labour Act, 1932.

STATEMENTS LAID ON THE TABLE.

The Honourable Mr. H. G. Haig (Home Member): I lay on the table:

- (i) the information promised in reply to part (a) of starred question No. 167 asked by Sardar Sant Singh on the 12th September, 1932;
- (ii) the information promised in reply to parts (b) and (c) of starred question No. 364 asked by Mr. M. Maswood Ahmad on the 16th September, 1932;
- (iii) the information promised in reply to part (a) of unstarred question No. 156 asked by Mr. M. Maswood Ahmad on the 30th September, 1932;
- (iv) the information promised in reply to starred question No. 157, asked by Sardar Sant Singh on the 8th September, 1932; and
- (v) the information promised in reply to unstarred question No. 158, asked by Mr. M. Maswood Ahmad on the 30th September, 1932.

ARRESTS OF SIKHS IN THE BOMBAY PRESIDENCY FOR WEARING KIRPANS.

*167. (a) In 1931, two Sikhs were arrested for carrying kirpans with blades exceeding the authorised length: in 1932, 26 Sikhs have been arrested, the majority for disregarding police orders issued during the last Bombay riots. The majority Sikh undergoing imprisonment was found guilty under section 337, Indian Penal Code, of causing hurt with his kirpan.

MOPLAHS CONVICTED DURING THE MADABAR REBELLION IN 1921.

*364. (b) and (c). The exact number is 369, of whom 221 are in Madras and 148 in the Andamans. There are also 221 whose releases have been sanctioned and who will be released as soon as they can be brought back from the Andamans.

CLAIMS OF A MUSLIM CLERK FOR THE POST OF CASHIER IN THE OFFICE OF THE DIRECTOR GENERAL, INDIAN MEDICAL SERVICE.

156. (a) The reply to the first part of the question is in the affirmative. As regards the second part, the facts are that when the cashier of the office of the Director General, Indian Medical Service, went on two months' leave the vacancy was filled by a clerk who had officiated as cashier on a previous occasion for a period of 4 months. This clerk has been assisting the Cash Branch for many years past. The Muslim clerk referred to by the Honourable Member had no experience of the work of a cashier and, as the vacancy was for only two months, the clerk who had experience of the work was appointed officiating cashier, on the understanding that the officiating appointment gave him no claim to permanent appointment in future. The Muslim clerk was not asked to furnish security or to forego his claims for promotion to the Assistant's grade, nor did he offer to do so.

REVOLUTIONARY CRIMES IN 1932.

*157. Sir, I lay on the table a statement which contains the information which was promised in reply to Sardar Sant Singh's starred question No. 157 regarding anarchist crimes committed or attempted during 1932. The information relates to the period 1st January to 30th July, 1932.

The number of persons actually sentenced, etc., during the period 1st January, 1932, to 31st July, 1932.

Province.	No. of persons actually sentenced.	Total No. of persons tried.	Total No. of persons without trial.	Total number convicted by trial court.	Total No. acquitted by Appellate Court.	Total number sentenced to death.	Total number transported for life.	Total number actually executed.	Remarks.
Assam.									All pending trial on 31st July, 1932.
Coorg.									
C. P.	14								
Madras.	5								
Burma.	2								1** Pending execution (1 case pending trial).
N. W. F.	3								†1 pending enquiry. ‡ 9 pending in court.
Dahai.	4								
U. P.	38								
Bombay.	4								
Bengal.	114								
Punjab.	6								(a) One case pending investigation. † On appeal one case committed to transportation for life.
Ajmer-Merwara.	1								
B. & O. I.	5								
Total	184	868	227	522	139	1	5	7	

N.B.—The entries in columns 3 to 10 in the case of B. & O. include certain cases of 1931 not completed till 1932.

EXTENSIONS GRANTED TO OFFICERS IN THE GOVERNMENT OF INDIA DEPARTMENTS.

158. I presume the Honourable Member refers to Gazetted Officers serving in the Departments of the Government of India. There are only two such officers, who have attained the age of 55 years and have been granted extensions of service. In this connection I would invite the Honourable Member's attention to clause (a) of Fundamental Rule 56 which indicates that extensions of service cannot be granted except on public grounds. In the case of Superintendents in the Government of India Secretariat, who are ministerial officers, clause (b) of Fundamental Rule 56 contemplates that they should normally be retained in service till they attain the age of 60 years.

Eight officers have completed 30 years service. As none of them has attained the age of 55 years, the question of granting them extensions of service does not arise.

The Honourable Sir Joseph Bhore (Member for Commerce and Railways): Sir, I lay on the table the information promised in reply to starred question No. 1058, asked by Mr. B. Das in the Legislative Assembly on the 29th March, 1932, and the information promised in reply to part (b) of starred question No. 1059 asked by him in the Legislative Assembly on the 29th March, 1932.

NON-ADMISSION OF INDIANS TO THE PRINCE OF WALES SEAMEN'S INSTITUTE, BOMBAY.

*1058. (a) and (b). The building was raised from public subscriptions. Government have no information as to the exact amounts subscribed but it is understood that while certain sums were received from private sources the majority of the subscriptions came from the Western India Turf Club, European firms and Europeans.

(c) Government have no information on the point.

(d) and (e). The Prince of Wales Seamen's Institute has ceased to exist as a separate institution. It has been amalgamated with the Bombay Sailors' Home Society, the two institutions being now known as the Royal Bombay Seamen's Society. The Society now admits Indian officers and cadets of European habits of life to the Institute.

NON-ADMISSION OF INDIANS TO THE PRINCE OF WALES SEAMEN'S INSTITUTE, BOMBAY.

*1059. (b) Attention is invited to the final reply to parts (d) and (e) of the Honourable Member's starred question No. 1058.

Mr. T. Ryan (Director-General of Posts and Telegraphs): Sir, I lay on the table the information promised in reply to starred questions Nos. 666—669 inclusive asked by Shaikh Fazal Haq Piracha in the Legislative Assembly on the 23rd September, 1932.

STRENGTH OF IRRIGATION EMPLOYEES IN BALUCHISTAN AND THE COMMUNITIES TO WHICH THEY BELONG.

*666. (a) The numbers are :—Hindus, 37; Muhammadans, 40; Others, 13.

(b) The numbers recruited in the last two years are :—Hindus, 6; Muhammadans, 10; Others, 4.

(c) The vacancies were not advertised as there was a large number of qualified candidates on the waiting list.

CONTRACTS FOR WORKS WITHOUT TENDERS IN BALUCHISTAN.

- *667. (a) No.
 (b) No. Local contractors are given preference provided that they are qualified and that their tenders are sufficiently low.

DEPRIVATION OF TWO PUNJABI SUB-DIVISIONAL OFFICERS OF THEIR SUB-DIVISIONS IN BALUCHISTAN.

- *668. No. There are only two sub-divisional charges in the Baluchistan Irrigation Department. Both are held by Punjabis.

APPOINTMENT OF RETRENCHED MUSLIMS IN THE IRRIGATION DEPARTMENT, BALUCHISTAN.

- *669. (a) A list of candidates for ministerial appointments is maintained by the Revenue Commissioner in Baluchistan, but appointments in the Irrigation Department are not controlled by the Revenue Commissioner and are not filled by candidates from his list.

- (b) No.
 (c) In the Irrigation Department retrenched and discharged Muhammadans who apply for vacant posts and who are qualified are considered along with other applicants.

Mr. P. R. Rau (Financial Commissioner, Railways): Sir, I lay on the table the information promised in reply to unstarred question No. 58, asked by Mr. R. T. H. Mackenzie in the Legislative Assembly on the 27th September, 1932, regarding expenditure on Madura-Dhanushkodi Section of the South Indian Railway; and also information in reply to part (b) of unstarred question No. 185 asked by Sir Zulfikar Ali Khan in the Legislative Assembly on the 27th September, 1932.

COST OF CONSTRUCTION, ETC., OF THE RAILWAY LINE BETWEEN MADURA AND DHANUSHKODI.

58. (a) Capital cost of construction of the line between Madura and Dhanushkodi including all bridges, etc., and the pier, exclusive of ferry steamers . . . Rs. 1,09,23,406
- (b)
- | | |
|---|--|
| (i) Capital cost of original ferry steamers . . . | Rs. 20,97,173 |
| (ii) Number . . . | 3 |
| (iii) When purchased ? . . . | 1913 |
| (iv) When discarded ? . . . | 1929 |
| (v) Amounts, if any, realised by sale thereof . . . | The sale has not been completed. |
| (vi) Capital cost of new ferry boats . . . | The total cost is Rs. 17,67,677, of which the capital portion is Rs. 3,84,459 and the balance is debitable to revenue. |
| (vii) Number ? . . . | 2 |

- (c) Amount spent in maintenance and upkeep of the line between Madura and Dhanushkodi for the last 6 financial years including all amounts expended to prevent, or as a result of, drifting sand, and also including all expenditure as a result of flood damage . . . Rs. 7,06,132
- (d) The traffic carried and the amount earned by :
 (i) the section of line between Madura and Dhanushkodi, and
 (ii) the section between Madura and Tuticorin during the past 6 years.

These figures are not now being recorded separately and are not therefore available.

NATURE OF WORKS DONE BY THE CENTRAL STANDARDS OFFICE.

135. (b) The amount realised on account of the sale of Indian Railway Standard Specifications during the period from 16th July 1931 to 24th September 1932 is: Rs. 3,729.

THE CRIMINAL LAW AMENDMENT BILL.

PRESENTATION OF THE REPORT OF THE SELECT COMMITTEE.

The Honourable Mr. H. G. Haig (Home Member): Sir, I beg to present the Report of the Select Committee on the Bill to supplement the Criminal Law.

RESOLUTION RE TRADE AGREEMENT SIGNED AT OTTAWA.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order. Before the Chair calls upon the Honourable Sir Joseph Bhore to move the Resolution of which he has given notice, it wishes to inform Honourable Members that in view of the fact that the subject which is now coming up for discussion is of such vital importance to the country, that the Chair has decided not to rigidly enforce the provisions of the Standing Order which limits the Mover to 30 minutes and all other Honourable Members to 15 minutes. (Applause.) The Chair proposes to allow reasonable latitude to Honourable Members, but in doing so wishes that in taking more time Honourable Members will not repeat themselves. (Hear, hear.) The time of the House is very valuable and the Chair trusts that the privilege which it has decided to extend to Honourable Members in giving them full opportunity to express their views will be used with discretion to ensure a fair debate on this important subject. (Loud Applause.)

The Honourable Sir Joseph Bhore (Member for Commerce and Railways): (Loud Applause.) Sir, I beg to move the following Resolution:

"This Assembly, accepting the Trade Agreement made by the Government of India with His Majesty's Government in the United Kingdom, which was signed at Ottawa on the 20th August, 1932, and the supplementary Agreement regarding iron and steel contained in the correspondence between Sir George Rainy and Sir Horace Wilson, dated the 22nd September, 1932, recommends to the Governor General in Council that he do introduce in the Indian Legislature at the earliest possible moment such legislative measures as may be necessary to give effect to the Agreements in question."

In this Resolution, Sir, I am submitting to the arbitrament of this House the results of the recent Imperial Economic Conference held at Ottawa so far as they concern this country. I ask from it a consideration of those

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results, free of all passion and prejudice, and a final judgment unbiased by extraneous considerations. I make this appeal, Mr. President, because so long ago as last April a campaign of relentless opposition to any agreement, based entirely on political grounds, was initiated and has continued ever since, making calm and impartial consideration of the questions involved well-nigh impossible. The charge, that we and the members of our Delegation were coerced into this Agreement, is, I need hardly say, absolutely and wholly untrue. I can assure the House that in this matter we were complete masters of our fate. I can also assure the House that in all conversations and negotiations, with which the Government of India were concerned, they were dominated by one idea and one idea alone, namely, to place India and India's interests before everything else (Loud Applause); and, if that was true of us, it was equally true of our Delegation, whose loyalty to Indian interests was only equalled by the care and sagacity with which they strove, and, I submit, strove successfully, to guard those interests against possible invasion. (Loud Applause.) In the admirable report of the Delegation the House will find a presentation of the case for the Agreement, set out with an impartiality, a clarity of statement and a cogency of argument which, I hope, will not fail to carry conviction. I must of necessity re-traverse some at least of the ground covered by that report in my endeavour to satisfy the House that the Ottawa Agreement represents an arrangement which, as far as we can see at present, is advantageous to both sides and that its non-acceptance would be against the interests of this country. I do not profess, Sir, to speak with the authority or the knowledge of the tariff expert; the view I am putting before this House is rather that of the inexperienced layman who has devoted some little time and care to the study of this subject and who honestly feels that he can wholeheartedly commend this Agreement for the acceptance of this House.

In order to focus my argument and not to weary the House with unnecessary detail at this stage, I have endeavoured to formulate three general questions which seem to me to cover the whole field and to which it will be my endeavour to give satisfactory replies. Those three questions are, firstly, why did we go to Ottawa and conclude the Agreement, secondly, what did we give and what did we get at Ottawa, and, thirdly, why we should accept the Agreement. The first of these questions seems to me to be of fundamental importance, and the answer to it will, I hope, furnish the fullest justification for the Trade Agreement which we have concluded with the United Kingdom. To enable me to answer this question, I must refer to the recent changes in British fiscal policy. Until the end of the year 1931, that policy may be said to have been founded on a basis of free trade. Certain duties, it is true, were being levied, but they were levied either for purposes of revenue on certain well-selected articles or in order to protect certain key industries or under the Safeguarding Act. The Import Duties Act of 1932 wrought a fundamental change in the fiscal policy of the United Kingdom and it placed the fiscal relations of the United Kingdom and the Empire countries on an entirely altered basis. Under that Act all articles, not dutiable under the existing enactments or included in the free list, became subject to a duty of customs of 10 per cent. *ad valorem*. Empire goods, other than goods from the non-self-governing

Colonies and Protectorates, which were indefinitely exempted, were exempted until the 15th November, 1932, when they would automatically become liable to the operation of the British Act, unless exempted by Order in Council. But the announcement, which was made in Parliament when the Bill was introduced, made it clear that exemption would be continued if the Dominions and India entered into reciprocal trade agreements with the United Kingdom. That, Sir, has now been done and, therefore, the 15th November is no longer a crucial date.

It is not within our province to criticise the new policy deliberately adopted by His Majesty's Government, to question its wisdom or to challenge its expediency. The one fact of importance for us is the new situation created by that change of policy. In plain language, the British Import Duties Act and the announcement made by His Majesty's Government clearly indicated that unless by the 15th November the Dominions and India entered into satisfactory reciprocal agreements with the United Kingdom, they must be prepared to see their goods subjected to the same rates of duty as the goods of foreign countries. Faced with that situation, Sir, we had two courses open to us. We might either have said to His Majesty's Government we are indifferent to the Import Duties Act or, at any rate, that we are quite prepared to see our goods subjected to the same rates of duty as goods from foreign countries and that we refuse to negotiate with you whatever the consequences to us. The alternative was honestly to face the possible consequences of the change in British fiscal policy and endeavour through negotiation to secure a satisfactory mutual arrangement between the United Kingdom and ourselves which might avert those consequences. We had no hesitation in choosing the latter course and I feel certain that the considered judgment of this House will endorse that action not merely as the best course to be adopted, but, as, in the circumstances, the only possible course we could have adopted if we had any regard for the interests of this country. I have seen it suggested in certain quarters that we might well have stood aside and allowed things to take their course. It is not denied that our export trade to the United Kingdom would, in consequence, have suffered diminution, but it is suggested somewhat lightly that that trade could have been diverted into alternative channels. Now, I want to say at once that I do not propose to embark on what I hold to be the impossible task of attempting to arrive at accurate mathematical figures of losses that might have accrued to us had we refused to negotiate with His Majesty's Government. As a matter of fact, the conditions of the problem do not admit of mathematical calculations of that sort being made at the present juncture. But I would like to make it perfectly clear to the House that, faced with that situation, we had absolutely no alternative but to take the course that we did. I have seen it suggested that our possible losses might have been in the neighbourhood of something like eight crores of rupees. That estimate was furnished by, I may justly call them, definitely hostile critics of the Agreement, and it was accompanied, as I said, with the light-hearted suggestion that alternative markets could easily have been found for that trade. Now, Sir, if those good gentlemen would disclose the secret of how to find such markets for trade of this magnitude, they would be laying this country under an eternal debt of gratitude. I only wonder why, if it was such an easy matter to find alternative markets for trade of this description, our trade should have suffered so grievously during

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ruin. Be it remembered, Sir, that the amount of Indian capital involved is by no means insignificant. I understand that the capital of purely Indian-owned estates is in the neighbourhood of 8½ crores of rupees and the capital of rupee tea companies is in the neighbourhood of 14 crores. Be it remembered, further, that in the event of trouble, the Indian planter, with his more slender reserves and his more restricted resources, would have been the first to go under. Remember, further, Sir, that close upon one million Indian labourers find employment in the tea gardens of India. It has been calculated that if a thousand acres of tea were closed down, the country would be losing something like 2 lakhs of rupees annually in wages, in salaries, in payments for transport and for local services and in the purchase of materials. I have with me here the statistics of four of the largest sterling tea companies and they show that no less than 72 per cent. of the gross earnings of these companies are spent in India. I hope, Sir, the House will realise from these figures that a question of great magnitude is involved. I hope it will appreciate the fact that the closing down of any large proportion of the three-fourth million acres of tea in India would have meant something little short of disaster for this country.

Now, Sir, I am afraid that the time at my disposal does not permit me to examine each single separate commodity, but I have said enough to satisfy the House that I am not drawing upon my imagination when I say that grave consequences would have resulted had we ignored the change in British fiscal policy and had we refused to enter into a trade agreement with the United Kingdom. Had we done so, I believe that those very people who now blame us for doing, what in their opinion should have been left undone, would have been the first to accuse us, and accuse us rightly, for neglecting the interests of this country. Whether the actual loss of trade was likely to amount to eight crores or ten crores, as hostile critics of the Agreement suggest, or, as I believe, to something infinitely more, we could not possibly have ignored it. Nor could we have refused, as those critics wish us to have done, to raise one little finger to save the agricultural and industrial classes from the consequences involved. I would only like to bring one further fact to the notice of this House and it is this that by the end of last month the British Import Duties Act and the prospective preferences had induced no less than 16 European countries including France, Germany, Holland, Belgium and the Argentine to do what? Not to retaliate, but to ask His Majesty's Government to enter into reciprocal trade agreements with them, a fact which, in my opinion, is clear evidence that the consequences of the British Import Duties Act and the fiscal policy of His Majesty's Government could not lightly have been ignored.

Now, Sir, I have endeavoured to answer the first question which I have set myself. I now turn to the second, what did we give and what did we get at Ottawa? I am afraid, Sir, I have taken a great deal of time, but, with your courtesy, I trust I may be allowed to proceed further.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member may go on. The Chair has already announced that the time limit will not be rigidly enforced.

The Honourable Sir Joseph Bhore: I will endeavour, Sir, in as brief a compass as I possibly can, to show what it is that we have given to the United Kingdom. Firstly, we propose to give ten per cent. preferences

in respect of the articles included in Schedule F to the Agreement except in respect of motor vehicles and parts of mechanically propelled vehicles and accessories other than aircraft in respect of which the preferences will be only 7½ per cent. But, Sir, the grant of preferences under this Schedule is subject to certain important limitations which I must lay special emphasis upon, which I shall return to later and which I shall ask the House to note most carefully. Secondly, Sir, we propose to give preferences in accordance with Article 11 of the Agreement. It is important that I should read the terms of that Article. The Article runs as follows:

"The Government of India will consider in the light of the findings of the Tariff Board the protective duties to be imposed on goods of cotton and artificial silk according as they are made in the United Kingdom or elsewhere, and will invite the Legislature to pass legislation by which, where protective duties are not imposed as a result of the recommendations of the Tariff Board upon United Kingdom goods of the kind specified in Schedule G, the margins of preference shown in that schedule will be extended to such goods."

That means, Sir, that we can take no action in regard to the preferences under this Article until we have received the report of the Tariff Board. Lastly, we propose to maintain the existing differential duties in regard to iron and steel except in regard to galvanised sheets on which the rates of duty proposed are, firstly, Rs. 80 on galvanised sheets rolled in the United Kingdom from Indian sheet bar; secondly, a duty of Rs. 58 on sheet rolled in the United Kingdom from other bar; and, thirdly, Rs. 88 on sheet not rolled in the United Kingdom. This arrangement, I may say, is in pursuance of an agreement arrived at between the iron and steel industry in the United Kingdom and the Tata Iron and Steel Company in this country; and it will be in force only until action is taken upon the report of the Tariff Board on the iron and steel industry, the statutory inquiry into which will take place in the coming year. Now, Sir, before I quit this particular subject, I should like to give the House a few figures which will enable it to place this question of preferences in its proper perspective. I have had figures compiled on the average of the three years ending with 1929-30, and I find that as much as 55 per cent. of our total imports into this country do not come into the preference scheme at all. Of the balance of 45 per cent., 22.4 per cent. are covered by differential duties in regard to which we are committed in no way under the Agreement and the future of which must be decided on the coming reports of the Tariff Board and decided on one principle and one principle alone, namely, the interests of this country. It is only, therefore, in regard to the balance, namely, 22.6 per cent. of our total imports, that preferences are given and; of this quantity, about half comes from the United Kingdom and the remainder from foreign countries. I shall probably have to return later, in the course of the debate, to these figures, but I would ask the House to ponder very carefully on their significance.

Then, Sir, let me turn to the other side of the picture and, in a few words, state what it is that we have for our part gained from the Agreement. And if here, in passing, I venture to comment in a few cases on the value of preferences to ourselves, it is because, even at this stage, I cannot allow grave misrepresentations in this matter to continue without refutation. In the first place, Sir, the articles described in Schedule A will now be subject to the rates of duty shown therein, but goods of these categories from India will be admitted free; that is to say, we will get a preference equal to the rate of duty shown in the

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Schedule. And now, Sir, I will say just a few words in regard to certain articles in this Schedule.

It seems to me that two commodities are of very special importance, vegetable oils and linseed. To those whose cry is that we are only to be encouraged to export our raw material, it will, I think, come as something of a surprise and possibly a shock to find that as in the case of our iron and steel, our cotton, our coir and our jute manufactures, our undressed leather and our carpets and rugs, so also, in the case of our vegetable oils, we have secured preferences which definitely advantage our manufactures and our semi-manufactures. In fact, some of the largest preferences we have obtained are in respect of goods falling under this category. The 15 per cent. preference *ad valorem*, which we get in regard to our vegetable oils, is of very special importance to this country for three reasons: firstly, it will enable us to capture a market which is very largely supplied by the foreigner. In 1929-30, Great Britain took castor oil, linseed oil, coconut oil, groundnut oil, rape and sesamum oil from foreign sources to the extent of no less than £2½ millions. Now, except in the case of coconut oil, there is no reason why India should not supply the whole of this, and this is the point to be noted: she has no serious competitor within the empire in regard to these other oils. Secondly, this preference will give a definite impetus to our oil-expressing industry, and, thirdly, it will help us to do what friends of Indian agriculture have been clamouring for for years, namely, to keep oil cake in the country to the great and lasting benefit of agriculture. Next, let me turn to linseed. Here I think it is generally admitted that the preference will be of considerable value and that also for three reasons: firstly, there is an extremely large market to be captured from the foreigner of the order of something like Rs. 2½ crores. Secondly, we will share this preference with no other member of the empire; and, thirdly, it is possible for us to supply almost the whole of the United Kingdom's requirements without contracting our supplies to foreign countries having regard to our production twenty years ago. This preference will, I hope, result in bringing under more remunerative cultivation areas that are now being cultivated with less paying crops or may even have gone out of cultivation. In the year 1918-14, the area under linseed cultivation was something like five million acres. In 1930-31, it had contracted to three million acres. If, as a result of this preference, we are able to increase that area by only a million acres, and, if we count a modest extra profit of Rs. 10 an acre from the cultivation of linseed, this will be placing nearly a crore of rupees extra into the pockets of the Indian cultivator. I will only mention and it will generally, I hope, be recognised that the very heavy preference we are getting on rice, namely, 1d. a pound, will help us to materially increase our exports and to capture a large trade that is now in foreign hands. Secondly, we obtain now a preference of Rs. 4½ a cwt. on our coffee. Instead of that preference, had we been subjected to a duty, then we should have been in a hopeless position as against the coffee-producing areas of the empire which are our chief competitors in the grade of coffee which we produce. Thirdly, we are assured continuance of the rates of preference on the articles shown in Schedule C; that is to say, a minimum preference of ten per cent. and in some cases a very much higher preference, as for instance, tobacco. This assurance is accompanied by the promise that if the rate of preference

in respect of any of these articles is increased, so far as empire countries are concerned, that increased rate will also be extended to India. Now, I have heard it said that we are going to get no advantage from the preference on certain of our manufactures which are included in this Schedule, as for instance, jute manufactures and carpets and rugs. The value of our exports in these articles to the United Kingdom in the year 1929-30 was in the neighbourhood of 4½ crores of rupees. It is a matter well known that in these commodities we are up against not merely British competition, but also foreign competition. People do not realise when they talk of preference being of no value or of little value, that the alternative was not between preference on the one hand and free entry on the other, but between preference on the one hand and possibly a very heavy duty on the other. Had we refused to enter into negotiations, instead of a preference in these cases, we may very well have had to face such a duty; and even a ten per cent. duty on the articles which I have referred to would most obviously have crippled us. I have pointed out that the trade in these articles to Great Britain amounted to something like Rs. 4½ crores in the year 1929-30. If that is an unconsidered trifle, then I have only to say that such trifles in a number of cases soon assume in the aggregate proportions which not even Chambers of Commerce and Professors of Economics can afford to ignore. Fourthly, it will be noted that we have been able to get certain commodities placed on the free list. I have already explained the importance of this; and I instanced the case of lac in which I pointed out that we were subject to the keenest competition from substitutes; and I pointed out also how important it was for us to secure the position we had, namely, free entry for our goods and an import duty on all substitutes from foreign sources. Lastly, under the British Import Duties Act, and while it is in force, we shall obtain free entry of all other articles not included in the free list and preference to the extent of the duty. The most important commodities in this class are Indian pig iron and half finished steel in respect of which we shall secure free entry and a preference of no less than 33½ per cent. against competing foreigners. The importance of this to the iron and steel industry of this country is, I think, evident. The surplus blast furnace capacity of this country is in the neighbourhood of about a million tons annually, the bulk of which must find a foreign market for at least a considerable time to come. Japan, three or four years ago, our most important customer, has been gradually diminishing her purchases, and she will continue to do so as she makes fuller use of her own and the Manchurian blast furnaces.

Now, Sir, I have given briefly a conspectus of the preferences we have given and the preferences we have got in exchange. I would like only to lay emphasis on one point even at the risk of repeating myself, and that is, I would point out to the House the way in which our Delegation has safeguarded the main principles of our economic and industrial policy. In the first place, the outstanding feature of that policy is the protection of certain Indian industries. These preferences do not impair that protection by one jot or tittle, or if industries, which are not on the protected list, wish to be included in that list, there is nothing in this Agreement to prevent that being done. I would point out to the House that it is wholly untrue to say that these preferences stand in the way of the protection of our industries either given or to be given in accordance with our policy of discriminating protection. Then, secondly, I would like

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to emphasise the fact that all that we have given is a margin of preference. We have not assured Great Britain either free entry or any particular rate of duty, so that we are free to levy any rate of duty.

And, lastly, Sir, we have safeguarded those commodities which it is our national policy to import, either free or at exceptionally low rates. I cannot do better than repeat to the House, in the language used by the deputation, those categories, because I am afraid that this matter has been most grievously misrepresented or at any rate overlooked:

"The exemptions from duty and the low rates of duty fall into one or other of the following categories:

1. Commodities of importance to the cultivator such as agricultural implements and manures.
2. Particular medicines such as quinine, the wide distribution of which is important from the point of view of health.
3. Commodities, a duty on which might operate as a tax on knowledge, such as printing machinery and appliances.
4. Commodities, a duty on which might retard a desirable development still in its infancy, such as aircraft and Radio appliances.
5. Commodities, duty on which would impede the development of industries such as power machinery and raw materials, and dyes.
6. Commodities, a duty on which might appreciably increase the cost of railway transport, such as locomotives and many other classes of railway material.

In each case the exceptional treatment of the articles concerned was based on broad grounds of national policy deliberately adopted which, it was held, must outweigh purely revenue considerations."

I would point out then, Sir, that, in respect of these categories, no preference has been given or promised.

Now, Sir, I come to the third question which I have set myself to answer—why we should accept this Agreement, and I can perhaps best clear the way for an answer by dealing with what may be, and, in fact, has been urged as reasons for its rejection. I have already dealt with the suggestion that we might well have ignored the results of the British Import Duties Act and have accepted the disadvantages that would flow from such disregard. I would like to point out that, while I hold the view that attempts to arrive at a mathematical estimate of the losses likely to result from the rejection of the invitation to discuss matters with His Majesty's Government must be largely illusory, we could not possibly have ignored such losses as even hostile critics of the Agreement are prepared to acknowledge. Such critics have suggested that our losses would only have amounted to something like eight or ten crores of rupees, and even this, we could not possibly have ignored. But another line of attack which has been developed is the attempt to frame a balance sheet and to show from it that we have given far more in the way of preferences than we have received in exchange. Now, Sir, I cannot object to those who have predilections that way indulging in these mathematical exercises, but I do say that the results do not necessarily bear any relation to facts. I would ask the House to look into this matter a little more carefully, and I am sure it will agree with me as to the futility of attempting to arrive, if accuracy is our object, at a profit and loss account at this stage. The main object of a preference is to increase the trade in the commodities for which it is given. But, Sir, the factors which

govern such increase are so complex and are subject to such varying considerations that any *a priori* attempt to work out their respective values and to determine the final result must give results differing little, if at all, from the results of pure conjecture. Take for instance, the case of linseed. We hope, by the preference we have obtained, to very largely increase our market for this commodity, but the moment we attempt to examine the matter more closely and arrive at a closer estimate of the exact extent of the increase, we are faced with formidable difficulties. In the first place, we must ascertain the uses to which this commodity is put; secondly, we must ascertain the comparative value of the Indian article and its competitors for the particular purpose to which it may be put; thirdly, we must know something of the comparative prices at which it is possible for one article to be substituted for the other for a particular purpose. Then we must have some idea of the extent to which, if any, the foreign competitor will absorb the preference, and lastly we must have some idea of the extent to which the Indian cultivator will respond to the better market which we have created for him. I confess, Sir, that the calculation is entirely beyond me, and if anybody is bold enough to embark upon it, I am sure, the House will agree with me that the results obtained can be of little real value. What we have a right to say, and what we do say, is that these preferences *a priori* will result in benefit to our trade and in expansion of its volume, but what we cannot say is the actual extent of the enlargement which will take place. There is only one way, Sir. We cannot evaluate these preferences, and if we attempt to do so, we can get no results which are of any value whatsoever. We can, however, say, that *prima facie* for the reasons which I have given we are likely to benefit from this arrangement which we have made. If, as a result of actual experience for a period of time, we find that our anticipations are not realised, that our actual trade returns do not show the enlargement which it was anticipated would take place, or that we have paid too high a price, it is open to us, Sir, to go back and to determine this Agreement at six months' notice. Article 14 is the most complete and the most conclusive reply to critics of the Agreement. It leaves us, as it leaves His Majesty's Government, free to go back upon our steps and determine this Agreement if we find that the bargain which we anticipated would be beneficial to us is not enuring to our advantage. And I would point out that this provision is only to be found in the Agreement that we have come to with the United Kingdom. It finds no place in the Agreement with any other Empire Country.

Sir, I have now trespassed a great deal upon the patience of the House. It may be that I have been somewhat discursive in dealing with a difficult subject; if I have, I ask the House to excuse me, for I am somewhat of a novice in dealing with matters of commerce and trade. (Sir Hari Singh Gour: "No, no.") But I can summarise in a few words the position as I see it, and as I would ask the House to see it.

The attitude of the Government of India towards the question of Imperial Preferences has been most admirably summarised in paragraph 15 of the Delegation's Report, and I would invite the earnest attention of the House to that paragraph. The British Import Duties Act, as I have already said, introduced a fundamental change in the existing situation. It placed the question of preferences in an entirely different perspective. It ceased to be a question of Imperial Preference; it became a pure business proposition, and as a business proposition we have regarded it.

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Faced with the consequences of this Act, we had to decide whether we would accept the disabilities which would be imposed upon our trade, or whether we would endeavour to avert or minimise those disabilities by mutual adjustments. And we had no hesitation in making our choice. We could not for a moment contemplate the possibility of a loss of trade of these proportions, which, following upon years of depression, might very well have involved large sections of our agricultural and industrial classes in severe disaster. Nor could we assume that easy optimism which suggests that it is a simple matter to find alternative markets for a trade of this magnitude. We could not ignore the object lesson of the past few years even if we were prepared to overlook the teaching of common sense. We, therefore, through our Delegation, entered into negotiations with His Majesty's Government for a mutual agreement between the United Kingdom and ourselves. I contend that that settlement, as far as we can see at present, is fair, equitable, and likely to be to the advantage of both sides. But, Sir, it is impossible for us at the present moment to calculate what exactly will be the true value of the preferences given and received, nor can we calculate exactly the even more important consideration, namely, the expansion of our trade which we hope will be the result of this Agreement. All that we can say is that we have smoothed the difficulties in the way of, and we have set in motion the conditions favourable to such an expansion, and that it would be a matter for surprise if expansion, and considerable expansion, did not result from it. More than that I do not claim.

Sir, I would say finally that I am not perturbed at condemnation of this Agreement on the ground that we have given far more in preferences than we have got in exchange. For I look to the British side and I see exactly the opposite statements made by those who hold the view that Great Britain has given far more to India than she has got from India. I read the denunciation in Parliament of the Labour Member who asked for protection against Indian pig iron instead of the preference we are getting and claimed that it was wiping out Scotland and Wales. I look to the contention of the representatives of Dundee in Parliament to the effect that Dundee's interests would be most grievously affected by the position we have secured for our jute manufacturers. I note the debate in Parliament on our linseed preference and the contention that this preference is going to affect more than one British industry. I look to the British trade journals and I find those contentions are repeated in regard to our carpets, our rugs, coir mats and coir manufactures. And I feel relieved, because I know that where such diametrically opposite assertions are made on the two sides, our own middle position cannot be far from the truth. (Cheers.) That position is this, as far as we can see at present, the bargain is a fair one, likely to be of advantage to both sides.

We must give the Agreement a fair time to operate, and if, as a result of experience, we find that our anticipations are not realised, that we have, as a matter of fact, given more than we are likely to get, or that our losses consequent upon any action which may be taken by our foreign customers—I confess I cannot visualise what they may be—outweigh the gains accruing from the Agreement, then, Sir, we are at full liberty to determine the Agreement.

In conclusion, I would like to say one word about our Delegation. Most of the members of that Delegation are known personally to the Members of this House. Most of them have occupied seats in this Chamber and have taken part in its deliberations. Every one of them has a record of services—either in public service or in public life—which I submit entitles their words and their actions to regard and consideration. All through the difficult negotiations at Ottawa these Delegates never for one moment forgot the interests of this country or placed them anywhere except in the forefront. They served those interests with a loyalty of purpose, a singleness of aim and a knowledge and understanding which seem to me to be above all praise. And, Sir, I would like to convey to them our warm appreciation of a task, which any unbiassed student of its report must admit, was well and truly done. (Cheers.)

Sir, I have now finished and I would commend my Resolution to the House for acceptance. (Loud and Prolonged Applause.)

The Assembly then adjourned for Lunch till a Quarter Past Three of the Clock.

The Assembly reassembled after Lunch at quarter Past Three of the Clock, Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

Dr. Ziauddin Ahmad (United Provinces Southern Divisions; Muhammadan Rural): Sir, I beg to move:

"That for the original Resolution the following be substituted:

"That the Ottawa Trade Agreement between India and other countries of the British Empire be referred for scrutiny and report to a Committee of the Legislative Assembly consisting of the Honourable Sir Joseph Bhore, Dr. D. B. Meek, Sir Hari Singh Gour, Mr. R. K. Shanmukham Chetty, Mr. B. Das, Sir Abdur Rahim, Mr. B. Sitaramaraju, Seth Haji Abdoola Haroon, Sir Zulfiqar Ali Khan, Mr. G. Morgan, Mr. Muhammad Yamin Khan and the Mover, with powers to co-opt not more than six specialists including persons interested in the industries affected by the Agreement; and to avoid dislocation in trade, this Assembly recommends to the Governor General in Council not to introduce a Bill to amend the Indian Tariff Act of 1894, till the report of the Committee has been adopted by the Assembly.

This Assembly further requests the Governor General in Council to urge on the British Government to suspend the operations of the Import Duties Act till this House has given its decision on the Agreement."

Sir, I take this opportunity to express my appreciation of the manner in which the Mover of the original Resolution, the Honourable Sir Joseph Bhore, presented his case before the House and I assure him that I shall discuss this question very coolly, dispassionately and entirely from the economic point of view. I do not blame the Government for taking part in the Ottawa Conference. I strongly believe that we should take our due share in all the deliberations affecting the British Empire. In fact I would have resented, had they kept aloof from the Ottawa Conference. I have nothing to say against our representatives, but I would not go so far as to say that I endorse every word they say, on the ground that two of our representatives have signed it. (An Honourable Member: "They are not our representatives.") In view of the very strong criticisms

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from various quarters in the country, not only from the economists, as the Honourable the Mover pointed out, but also from the representatives of various industries and commerce, I think it is our duty, as representatives of tax-payers, to consider very carefully the arguments on either side, before we endorse our opinion on this Trade Agreement. The question of Imperial Preference is one on which opinions are very sharply divided in every country including England. Even those who are not opposed to the principle of Imperial Preference would like to examine the loss and gain to India in regard to each commodity included in the Agreement. It is not fair to the Legislature and to the country to rush through the Bill in spite of the explicit warning of the Fiscal Commission to the contrary. The Fiscal Commission very clearly said in their report in paragraph 268:

"It is evident that the Legislature can hardly be asked to pronounce an opinion until it has some idea of the extent to which its application is feasible. We, therefore, recommend that as a preliminary to any consideration of the desirability of India adopting the policy of imperial preference, an examination should be made by the Tariff Board to determine whether there are any commodities on which preference might be given in accordance with the principles which we have laid down to the benefit of the Empire and without detriment to the Indian interest."

Now, the same Commission laid down one very important principle that the preference should not involve any particular economic loss to India after taking into account the economic gain which India derives from the preference granted on her by the United Kingdom. Sir, through you, in your double capacity I would request the Government that they ought to have seriously considered this particular paragraph of the Fiscal Commission. As soon as the report was out, they could have referred the whole question by executive action to the Tariff Board and, had they done so, the necessity of moving the amendment, which I am moving today, would not have arisen. What is Imperial Preference? This has been beautifully defined also by the Fiscal Commission. It really means taxing one country for the unemployment of another country. That is really the meaning of Imperial Preference. Then we should like to know how much you are taxing the Indian people for the unemployment in the United Kingdom and how much you are taxing the United Kingdom for the unemployment in India. I should like to see the debit and credit, the balance sheet of the two before I give expression to my opinion whether this particular Agreement is for the good of India or against the benefit of India. We have really to sit down and examine the details of our Agreement. We must go through the loss and gain on each item of the Agreement which, under the Resolution, we cannot discuss on the floor of this House. We can only discuss here the principles without going much into the figures for each commodity. In this case details are as important as principles, if not more.

I now draw attention to the few principles which have not been answered in the report. We know that the Fiscal Commission in their report, which was drawn up in the year 1922, said that India receives about 2/3rds of exports from the British Empire and sends only 1/8rd of exports to them. The question of exports and imports is reviewed in "the Review of the Trade of India for the year 1931-32". Here we find that in the case of import to India from United Kingdom, the figures are gradually diminishing. The pre-war average was 62.8 per cent. After the war, it was reduced to 57.6. In the year 1930, it was reduced to 37.2 and last year it was further reduced

to 35.5. On the other hand, our export to the United Kingdom has risen during the same period from 24.2 to 28.2. Therefore our export has, during this time, risen while the import from the United Kingdom has certainly diminished. Therefore if protection is needed, it is needed by the United Kingdom and it is not needed by India. I will come later on to the argument advanced by our representatives for signing the Agreement.

Sir, the allied problem, which is really a very disquieting problem and a problem of a very alarming nature is the one to which I am coming now, that is the question of the balance of trade. Now this question of the balance of trade is really a very important feature in the economic development of our country. Now, attention was drawn to it by our Finance Member, Sir George Schuster, in the Ottawa Conference, in these words:

"According to the figures for the first three months of this year, India is only exporting merchandise at the rate of 120 crores per annum (£90 million sterling) while she needs, as I have already shown, a favourable trade balance of at least 50 crores (£37½ millions) in order to maintain an even keel. Therefore, if it were not for the export of gold she could only afford to be importing at the rate of 70 crores (£52½ millions) per annum. A reduction of imports to such a figure would create a completely impossible budgetary position. If on the other hand imports were not so reduced she would be unable to meet her external obligations except by raising fresh loans, a course of which the dangers and disadvantages are obvious."

Those remarks were made on the figures of three months, i.e., April to June, and when we take up the figures for the succeeding three months as well, that is, to the end of September, we find that the position has become more disquieting; that is, instead of having a balance of trade in favour of India, we are now having exactly the reverse; that is, in the six months of the year 1930-31 we had a balance of trade in our favour to the extent of 38 crores. Last year we had a balance in our favour of 12 crores, and this year during the same period we have a reverse balance, that is, —8½ crores. Therefore, this reverse balance is really a balance of a very disquieting nature.

Mr. B. Das: What about the export of gold?

Dr. Ziauddin Ahmad: I am now talking of merchandise only. The export of gold is a passing feature which cannot go on indefinitely. That is different. Now, coming to this balance of trade, I am sorry the Finance Member is not here, because it is he who will be concerned mostly in his budget debate. The average balance of trade before the war was 78.27 crores. In 1927-28, it was 81.97 crores. Then, in 1928-29, it was 86.47 crores. In 1929-30, it was 71.98 crores. In 1930-31, it was 62.05 crores, and last year even it was 34 crores, but this year we expect a deficit of 17 crores. What does it mean? It would really mean that India will have to borrow 50 crores of rupees in order to meet her obligations in England, and, in addition to that, India will also have to borrow, to pay for this deficit in the balance of trade, about 17 crores. This really means that in this year 1932-33 India will have to borrow a sum of about 67 crores in order to pay up obligations in England and in order to pay up for the unfavourable balance of trade. Now I should like to be assured by our representatives at this Conference on the floor of this House how this Imperial Preference will affect this unfavourable balance of trade. Will it affect that favourably or will it be against us, and why? I should like to be told by means of figures how this balance of trade will be

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affected by this Ottawa Conference; and if no answer can be given on the floor of this House, then my case is made out for appointing a Committee and I think Government have no alternative but to give us this particular Committee in order to convince the country that this Imperial Preference will not affect adversely this balance of trade against us. Sir, this unfavourable balance of trade may be due to a variety of reasons and it is impossible, in the course of a speech, to discuss all those reasons. We should like to know and discuss what those reasons are and how far those reasons would be affected by this Imperial Preference and the Agreement which we have made with the British Empire and the Colonies.

Now, the third point which requires to be looked into and where the report, I think, has not done full justice is about the raising of the price level. I moved a Resolution last March to the effect that it should be the duty of the Government of India to pay more attention to the fixation of the price level than stabilising exchange and now this Ottawa Conference, in the various resolutions, have confirmed this principle that the price level ought to be raised slightly and then stabilised at that moment. I should like to know whether this Imperial Preference will have the effect of raising the price level or lowering the price level. As far as I can make out, it will lower the price level and will not raise it. Some people may say, it will have opposite effect, but from the figures I have in my mind I am convinced that this Imperial Preference will lower the price level, which is exactly the opposite of the recommendations of the Ottawa Conference. This is also a point which ought to be carefully looked into before we put our seal on the Agreement at the Ottawa Conference.

Then, the fourth point on which I should like to have some assurance from the signatories of the Agreement on the effect this would have on our trade with foreign countries. It has been pointed out that we have got a greater volume of trade with foreign countries than with the British Empire. If we sign this trade document, will it or will it not happen that some of the countries may retaliate against us? Will it not be that some of these countries may have some duties put on our goods exported to them? So whatever we have gained in one pocket, we may perhaps lose in the other, and the net result may be a little loss instead of a gain. This is a point which I should like to visualize and to discuss at the committee stage, as to how it will affect our trade with the countries outside the British Empire. I heard with great comfort what was said by the Honourable the Mover of this Resolution that there are several countries outside the British Empire which would like to come into this pact. Well, I would very much welcome that, and if we could feel really certain that what is said would happen, then it would really be a great consolation to us; but before we put our seal on this Agreement, we should examine a little more closely this particular point and see how it would affect our general trade. My next point, which is the fifth point, and on account of which I move this amendment, is that we are asked to give our consent to this Agreement on the very imperfect material placed before us. Here is only one solitary report, however well-written it may be, from our Delegations. We have not seen the whole proceedings of the Ottawa Conference. I would certainly like to see the report which the British Delegation have written for their own Parliament, and this

particular report is not before us. Then I would very much like to see the reports written by the various Dominion representatives for their own country, and these reports have not been supplied to us; and unless we see the reports written by the various Delegations and we have the whole of the proceedings of the Conference before us, it is very difficult for us to form a judgment on the solitary opinion of a few individuals and on one report alone. It may be entirely a one-sided case and the other side may have been entirely overlooked. It is on account of all these arguments that I have moved that the matter be referred to a Committee so that Members who perhaps may find some delicacy in giving expression to their views in public may perhaps be able to tell us their views in the Committee and we may be able to form our own judgment. I suppose, Sir, that all the Members have been supplied with a copy of a report written by Messrs. Vakil and Munshi. They have given certain figures and I would like to examine them with the help of authoritative figures to find out whether they are correct or not. This is a report which I cannot examine on the floor of the House and I want some time to discuss it. Mr. Munshi has said on page 22 which has already been quoted by the Honourable the Mover:

"If we do not accept the Ottawa Agreement, then our export trade will be affected by an extent of 8 crores. By accepting the Agreement we may capture trade up to the value of 13 crores."

But looking from the point of view of Britain, they say on page 15:

"In view of the fact that it is not possible to take into account the above-mentioned considerations in making the required estimate, we shall err on the safe side if we take the estimate already explained above, namely, 33.3 crores, as the probable additional market that the United Kingdom will capture with the help of the proposed preference."

So, here we have got the figures showing that the United Kingdom will capture a trade amounting to 33.3 crores and India cannot aspire to capture more than 13 crores of rupees. These are the figures which have been supplied to us from one quarter and I would like to discuss the matter with those persons who have got the figures on behalf of the Government of India in order to find out which of the two figures are right. Therefore, I am not asking too much when I say that we should be given an opportunity to verify for ourselves the argument and the figures on either side.

Sir, one argument which was really a central argument in the report of the Ottawa Agreement and which was also mentioned by the Honourable the Mover was that the British Government were going to impose duty on our export commodities and our trade will substantially suffer. So, in order to avoid the falling of our export trade with the United Kingdom, it is very necessary that we should enter into this Agreement of Imperial Preference. Now, I work out the arithmetic from another point of view. Suppose we do not allow any Imperial Preference on the goods imported from the United Kingdom and suppose the amount which we save in the case of this Imperial Preference may be, roughly speaking, one crore of rupees. Then we keep one crore of rupees which we would have saved by not giving preference to the British goods in our pocket, and for all the articles that are exported from India on which the duty is charged we may give a bounty out of this one crore which we have got equivalent to the duty imposed by the British Government. The point which we have then to consider is whether I have got sufficient money here to give in bounty all the articles exported to the United

[Mr. B. Das.]

to co-operate with England as a free partner of the British Empire. I do not want to co-operate with England as a subject race, but as a representative of sovereign nation. I fully endorse the high compliments paid by my Honourable friend, Sir Joseph Bhore, to the Delegates that went out from India. I have seen it in the Press that personal reflections have been cast against the delegates who went out from India, that my Honourable friends, Mr. Chetty and Seth Haji Abdoola Haroon, represented only the British interests. They themselves never said that they represented the Indian nation. They never said they were the accredited representatives of the Indian nation at Ottawa. Circumstanced as they were and situated as they were, they had to do their best. I will criticise later on the views of my Honourable friend, Mr. Chetty, the Deputy President of the House. But I have found it stated in the Press and he has also been challenged by the Federation of the Indian Merchants Chambers, of which he is a member of the executive committee and to which executive committee I also belong. How is it that the Federation of Indian Merchants Chambers elected or recommended Mr. Chetty to go to Geneva to represent the Indian mercantile community? Knowing that Mr. Chetty is going to Ottawa, how is it that the Federation of the Indian Merchants Chambers elected him to the executive committee? Differing, as I do, I do differ from the views of my Honourable friend, Mr. Chetty, and also from the conclusions he has arrived at, differing as I do from him, all the same, I do warn the Press and I do warn the Indian Merchants Federation not to cast personal reflections on those who differ from them. After all, my Honourable friends, Mr. Chetty and Seth Haji Abdoola Haroon, did not represent the people of India and they represented the Government of India and they tried to do their best under the circumstances. I may say this, if I were in their place, I do not know if I could have done better than they did. It may be that I would have appended a Minute of Dissent to that Agreement which they manufactured at the India House in London. But my Honourable friends, Mr. Chetty and Seth Haji Abdoola Haroon, probably acted in a more statesmanlike manner than I would have done and they wanted to be businessmen only and forgot the political aspect of the question, having been so many thousands of miles away from India.

An Honourable Member: That is no defence for them.

Mr. B. Das: I am only saying that no personal reflections should be cast upon these friends. I was stating that my Honourable friends, while they were in that cold country, while they were in those bleak climes of Ottawa where, I understand, people travel on dog sledges or on sledges drawn by rein-deers, in that country my Honourable friends forgot the political aspect of the question, they forgot the exact implications of an agreement with England or with the Dominions.

Sir, my friends succumbed to the deep laid plot laid by the British Government, a plot which was not a new one. The plot is too well known to you, Sir. Alas, how I wish you were here on these Benches and, instead of my speaking, you would have addressed the House and exposed this deep laid plot which was started in 1903 and which was revived after the War! The plot of Imperial Preference was completed when the Conservative Government, or when the so-called National Government came into power in England. They hatched this plot, they passed

an Act last February, called the Import Duties Act. England only knew too well that the Economic Conference will meet at Ottawa. England passed the Import Duties Act whereby they put certain duties on certain articles imported into England. England wanted India to bow on her knees and bend down on her feet and to accept what Baldwin dictated at Ottawa and this was what my Honourable friends, Mr. Chetty and Seth Haji Abdoola Haroon, did at Ottawa. They did not breathe the spirit which my Honourable friend, Sir Joseph Bhore, expressed. My Honourable friend, Sir Joseph Bhore, said that everything has ended happily. He said that India may not have come out very successfully, but India will not be worse off. I doubt whether the starting point with which my Honourable friends started to write the report was a correct one. What was the basis?

"It is no longer a question of what India stood to gain, but what she stands to lose."

That is the basis with which the representatives of Government of India started writing their report. There was a loaded pistol and there were the calculations of British economic experts and, probably, our experts. I take this opportunity to welcome my old friend, Mr. Burt, as a Member of this House. He was the Agricultural Adviser at Ottawa and he must have marshalled his statistics and figures. There is again my very esteemed friend, Dr. Meek, whom also I welcome here. He also must have sent volumes of statistics for my friends and my friends succumbed to the loaded pistol that England held at their throats. So when my friends all the time thought that India was going to lose everything and they must save everything from the deluge, how could they remember the basis of all agreements and conventions which you, Sir, laid down in that well-known report of the Fiscal Commission of which you were the distinguished Chairman. You, Sir, in your minute of dissent laid down the principles of reciprocity for India. I have always admired this report and I have always admired the minute of dissent that you and your four other distinguished colleagues wrote. You laid down in paragraph 44 on page 199, how India could have a reciprocal trade agreement with England:

"We are in favour of the principle of Imperial Preference on the distinct condition that India should in this matter be put on the same footing of freedom as is enjoyed by the Self-Governing Dominions, and that the non-official members of the Legislative Assembly should be given power by legislation or other equally effective means to initiate, grant, vary and withdraw preference as may be necessary in the interest of India in all its aspects."

This is better illustrated in one of the previous paragraphs and I will just take this opportunity to quote two pertinent sentences. In paragraph 31, on page 193, this aspect is further illustrated:

"The logical conclusion, therefore, is that India cannot accept the principle of Imperial Preference until she has attained responsible government, and is able to regulate her fiscal policy by the vote of a wholly elected legislature."

Then, I will read one more passage. This is from paragraph 34 on page 194:

"It will be obvious that Indian sentiment is practically unanimous against Imperial Preference in view of India's present political status in the Empire. The conclusion is therefore inevitable that this question can only become a matter of practical politics when the promised goal of responsible government is reached."

[Mr. B. Das.]

Sir, if I could sum up my whole amendment and my whole speech in one brief sentence, then I would sum up in this one sentence so beautifully and so admirably put:

"The conclusion is, therefore, inevitable that this question can only become a matter of practical politics when the promised goal of responsible government is reached."

Sir, as I said, the representatives of India forgot the political aspects of this question. They did forget it as they mentioned somewhere that they were busy in being lavishly entertained by the Canadian Government. They did forget it in that lavish entertainment and also because they had no alternative present. Of course I cannot ask three of these delegates, namely, Sir Atul Chatterjee, Sir George Rainy and Sir Padamji Ginwala to be Indian patriots or to think of the political aspect of the question. But, I wish, my other two friends had remembered this political aspect of the matter.

Sir, as I stated, the Indian Delegation started from the wrong end of the stick with a wrong premise that India is losing all the time. That is why they made so many misstatements in the body of this so-called admirable report. It is, of course, a very well-written report, but there are many misstatements in it. Too much has been made of discriminating protection. If this House gave certain discriminating protection to two particular industries, the steel industry and the cotton mill industry, it also gave Imperial Preference to England and let me tell the House that the non-official Members were, by a majority, opposed to it. The non-official Members quoted chapter and verse from this Magna Charta of the fiscal policy of India, but that was unheeded. To say that the people of India and the legislature had sanctioned discriminating protection with Imperial Preference is a travesty of facts and is a gross misstatement. If this booklet had been written for non-Indian readers only, I would not have minded at all. And my very esteemed friend, Mr. Chetty, with whom I have always worked and seldom differed, knows that if India was a party to discriminating protection with that adulteration of Imperial Preference, it was not at India's own free will. It was extracted from it under the pretence that the Government of India and the legislature must agree; and, constituted as this House is, with forty valiant men sitting behind the Commerce Member and with my friends of the European Group and my friends, the nondescripts, what could you expect and how could India voice her national feeling? Today it will go out that India is a party to discriminating protection with another dose of preferential tariff. But I must say emphatically here that India has never been a party to it. As Mr. Baldwin has extracted from my friend, Mr. Chetty, certain concessions, so also Government have extracted certain concessions, because certain Indian industries wanted protection and Imperial Preference was extracted from us. My friend, Mr. Mitra, says, we accepted discriminating protection. We accepted, at the same time, the policy of giving certain preferential tariff to England. But I can show that both Mr. Mitra and myself voted in the opposite lobby to Government. We did not want to give any preferential tariff to England. Therefore, I understand discriminating protection to mean that the discrimination is such that England receives certain preferential tariffs. This differential duty was accepted from us and here there are statements that it has not done India any harm and India gave it of her own free will. But India never gave tariff preference

of her own free will; and what is said here in section 4 of para. 15, that this has been done entirely in India's interests and not on grounds which would justify the general scheme of tariff preference. I strongly refute this statement. This is a wrong statement, a misstatement.

All the time my friends were labouring that India should establish her position in the colonial markets: in para. 25, they bring about a certain misstatement about colonial markets; but I do not know if India is very anxious to capture the colonial market and tolerate the ill-treatment there. We are anxious to capture the colonial markets, but we do not like the colonials owing to the way we are treated there. This sentiment was so admirably laid down in section 2 of para. 44 of the minute of dissent signed by you, Sir, in the Fiscal Commission's Report.

"That the condition precedent to any agreement with a British Dominion in trade matters on the basis of reciprocity should be the recognition of the right of Indian people to a status of complete equality and the repeal of all anti-Asiatic laws so far as they apply to the people of India."

When I said that, I would take off the word "dominions" from para. (b) of my Resolution, because I find my friend, Mr. Chetty, has not entered into agreement with any of the Dominions, and yet the fact stands that these Dominions have their large financial investments in British houses; but they have entered into certain agreements with the Colonies and to us, Indians, who are laymen, Dominions and Colonies are the same; and what is our position in the Colonies today? We are not recognised as equals and there are these anti-Asiatic laws that are upsetting and creating a lot of ill feeling among Indians from one end of India to the other; what is the effect of these anti-Asiatic laws? We read in the papers, in Calcutta there are thousands and thousands of returned emigrants from South Africa, New Guinea, Malaya, etc., who are starving and I read in the paper this morning or yesterday that the Government of India have been pleased to sanction the paltry sum of Rs. 2,000 for these people who are under my friend, Mr. K. Ahmed's care in Matia Bruz at Calcutta.

Mr. K. Ahmed: (Rajshahi Division: Muhammadan Rural): I do not represent that part of the country.

Mr. B. Das: I have made it clear that I have no objection to entering into agreement with England; but the condition must precede that India must be the equal of England, so that we can meet as equals and not as a subordinate nation, as a subordinate race which has no independent point of view. Apart from that I have made it clear that I do not want any trade agreement today or tomorrow or even when India is free, with Canada or Australia or South Africa or with any Dominion or Colony for the bad treatment, for the anti-Asiatic laws they have framed; and I want to ask my friend, Sir Joseph Bhore, who is so very anxious to enter into a trade agreement with the Colonies, what has he done about the trade discrimination between Indian residents and the European residents in Kenya and Tanganyika and how much our Indian friends and merchants are suffering today under trade disadvantages? My friend, Mr. Chetty, neglected that aspect of the question and today he asks India to enter into trade agreement with the Colonies. I am not going to enter into any trade agreement with any Colony. With these words, Sir, I commend my Resolution to the House.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Amendment proposed:

"That for the original Resolution the following be substituted:

'Having considered the papers on Ottawa Agreement, this Assembly recommends to the Governor General in Council that he be pleased:

(a) to convey to His Majesty's Government that India is not prepared to consider any proposal for reciprocal trade benefits with the United Kingdom till such time as India is not given Responsible Self-Government; and

(b) to convey to the Colonial Empire that no Trade Agreement will be entered into or Tariff concessions granted to any Colony which does not concede to Indians settled in their territory equal rights of citizenship."

The next amendment on the Order Paper stands in the name of Mr. Misra, which cannot be allowed to be moved, because the first part is a repetition of what has already been moved and the second part is outside the scope of this Resolution. As regards Mr. Jog's amendment, that is also practically covered. He wants a Committee and a Committee has already been proposed.

Mr. Gaya Prasad Singh cannot move his amendment, because it is a repetition of what has been already proposed.

Mr. Ramakrishna Reddi.

Mr. T. N. Ramakrishna Reddi (Madras ceded Districts and Chittoor: Non-Muhammadian Rural): I do not move my amendment.*

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Mr. Sitaramaraju.

Mr. B. Sitaramaraju (Ganjam cum Vizagapatam: Non-Muhammadian Rural): Sir, with your permission, I propose a few changes in the amendment which runs as follows:

"This Assembly, before accepting the Trade Agreements made by the Government of India with His Majesty's Government in the United Kingdom, which was signed at Ottawa on the 20th August, 1932, and the Supplementary Agreement regarding iron and steel contained in the correspondence between Sir George Rainy and Sir Horace Wilson, dated the 22nd September, 1932, recommends to the Governor General in Council to refer the matter to the Tariff Board for the purpose of examining the said agreements so that if, on the report of the Tariff Board, the Indian Legislature were to come to the conclusion that the acceptance of the said Agreements are in the interests of India, this Assembly might recommend to the Governor General in Council to introduce such legislative measures as it might deem to be necessary and this Assembly further requests the Governor General in Council to request His Majesty's Government to postpone the operation of the Import Duties Act in the meantime."

Sir, I move.

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* "That for the original Resolution the following be substituted:

"This Assembly, before accepting the Trade Agreement made by the Government of India with His Majesty's Government in the United Kingdom, which was signed at Ottawa on the 20th August, 1932, and the Supplementary Agreement regarding iron and steel contained in the correspondence between Sir George Rainy and Sir Horace Wilson, dated the 22nd September 1932, would submit the report of the Ottawa Agreement drafted by Sir Atul Chatterjee and other members of the Indian delegation for the consideration of various Chambers of Commerce in India and with the collective opinions thus obtained would submit the Agreement and all connected papers and opinions for examination by the Tariff Board, and if the Tariff Board reports that such Agreement is to the best interest of India, then recommend to the Governor General in Council that he do introduce in the Indian Legislature at the earliest possible moment such legislative measures as may be necessary to give effect to the Agreements in question and to make representations to His Majesty's Government to suspend the operation of Foreign Import Duties Act on Indian commodities entering the United Kingdom until the time the Assembly considers the Ottawa Agreements."

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member is reading the word "might"; that makes it indefinite.

Mr. B. Sitaramaraju: "Will" I propose to substitute for "might" to make it definite. Sir, in moving this amendment I would like to say that my Honourable friend, Dr. Ziauddin Ahmad, who has moved his amendment has placed the question on an economic issue; and my Honourable friend, Mr. Das, has placed his amendment on what he called the political issue. I consider that economics is only a part of politics and politics today is nothing but economics; and, therefore, in moving my amendment I would like to say that it is as much a political as an economic issue. These trade agreements have been entered into by the Indian Delegation which was only representing the Government of India, but not the people of this country. The Government of India's representatives entered into an agreement with His Majesty's Government. The Government of India are not responsible to the people of this country, but they are responsible, under the constitution, to the people with whom they entered into an agreement. Therefore I wish to say that this Agreement, which was entered into by the Government of India, as agents of His Majesty's Government, with their principals, His Majesty's Government, must be submitted to the scrutiny of this House. I repudiate the suggestion that the representatives of the Indian delegation are in any way representing this House.

Mr. K. Ahmed: It is good logic?

Mr. B. Sitaramaraju: I always speak good logic only, Mr. Kabiruddin Ahmed. The Government of India said that they did not intend to make any changes without satisfying the Legislature that they are in the interests of India. But I would like to ask the Government of India, whether they have placed this Legislature in a position now to satisfy themselves that the Agreements which they have entered into with His Majesty's Government at Ottawa are really in the interests of India? I submit that they have not placed us in a position to judge and to satisfy ourselves that those Agreements are to the benefit of this country. Today we find that experts have been called in to the rescue of the Government, probably to fight us on the floor of this House regarding the benefits of these Agreements, but the same consideration was not shown to us. We were not given the opportunity to scrutinise these Agreements by any impartial tribunal or by an expert body like the Tariff Board. When I said that this matter must be referred to the Tariff Board, I was only repeating what was laid down in the Fiscal Commission Report. The Fiscal Commission, at page 119, in para. 263, state as follows:

"It is evident that the Legislature can hardly be asked to pronounce an opinion on the policy until it has some idea of the extent to which its application is feasible. We would, therefore, recommend that as a preliminary to any consideration of the desirability of India adopting the policy of Imperial Preference, an examination should be made by the Tariff Board to determine whether there are any commodities on which preference might be given in accordance with the principles which we have laid down to the benefit of the Empire and without detriment to India's interests."

Further, Sir, they have, at the close of para. 264, stated as follows:

"And it is evident that political considerations could not be excluded in determining whether it was desirable for India to enter into an economic agreement or not."

[Mr. B. Sitaramaraju.]

That would strengthen my position that political considerations cannot be separated, although this is purely a business proposition. On the strength of this recommendation by the Fiscal Commission that the Tariff Board should examine the various commodities and see how far these agreements are to the interests of this country, I have tabled this amendment that an inquiry should be made by the Tariff Board as a condition precedent to our decision. When some others and I have been proposing these amendments, we were accused of trying to adopt dilatory tactics and imposing political considerations on a measure of an emergent character. To consider a business proposition, I suppose that the parties to that business deal must both be free, and, therefore, when any of my friends ask that India should be a self-governing country to enter into these agreements, they only ask that India should be in a position like any of the other Dominions to enter, as a free and unfettered party, to an agreement in order to avoid any possible undue influence being brought to bear upon such a business deal. You have, Sir, practically, in your minute of dissent, stated, what my friend, Mr. B. Das, repeated in his amendment, looking at it purely from a business point of view. Therefore, I say that it is a purely business proposition and that both parties should be free and unfettered. If this is a business proposition, and if we are placed in a position to judge, that these agreements would be to our interests, I do not think there will be anybody in this House who would forgo an advantage to India. But we must be sure of that. It is not we who were importing political considerations of the character to which those people who are anxious that we should ratify this Agreement say, but they are importing political considerations. I read from an inspired telegram of the Associated Press that the Conservatives who are in a great majority in the House of Commons today might be displeased by any refusal on our part to ratify these Agreements. Thus it is our enemies who introduce political considerations, by threats and promises referring to the constitutional advance. We may expect the Ethiopian to change his skin, the leopard its spots, but we can never expect an Englishman to forget his self-interest in a fit of magnanimity. We shall not be doing good to this country to be led away by such considerations.

Sir, there are two reasons advanced by the Government why they could not submit these Agreements to the consideration either of an expert Committee or to the Tariff Board. It is said that there was a great hurry to pass this Resolution on two grounds—one is the announcement of His Majesty's Government to enforce the Import Duties Act by a certain date, and the other is, the power given under this Report to get out by giving six months' notice. These two grounds

The Honourable Sir Joseph Bhore: May I correct my Honourable friend? I do not know whether he is referring to me, but I never said so. In fact, I made it perfectly clear that by reason of the fact that our Delegation has signed the Agreement, the 15th November had ceased to be a crucial date.

Mr. B. Sitaramaraju: I thank the Honourable Member, and I accept his correction that it is not a crucial date. We are being terrified with the operation of the Import Duties Act and also being assured that we

will not be doing lasting injury if we accept this Agreement, because there is a clause in it which would enable us to get out of the obligation by giving six months' notice if we want to get out. With regard to the six months' notice, of which so much has been made, I would like to say this. This is a trade agreement. It is not a fancy dress ball where we can get in and get out according to our will and pleasure. If we want to repudiate this Agreement, it must be by an Act. And how is that Act passed? A Bill must be passed by this House, and then it must go before the Council of State, and through the bottle neck of the Council of State it must pass. We know the composition of the Council of State. Then, the Bill has to receive the assent of His Excellency the Governor General, and lastly, there are of course the powers reserved to the Crown under the constitution. If there is anybody in this House who so far forgets himself as to think that the six months' notice is such an easy way by which we can get in and get out according to our will and pleasure, he is sadly mistaken. There is also another aspect. References have been made to the freedom we may get under the new constitution. I ask, is there any gentleman in this House who believes that the Conservative majority in the House of Commons will give us a constitution which will be of any use to us, and if some of my friends who think that by accepting these Agreements we will get freedom, let them be satisfied; but I for one am very pessimistic and do not hope to get a constitution worth having from the Conservatives. If by a miracle the Conservatives in England were to give us a constitution which we require, as this is a trade agreement, it cannot assure us to provide when we want to give the six months' notice, the same conditions which prevail at the time when we enter into this Agreement, because in the meantime trade would be dislocated the finances would be upset, and we do not know what changes will be on our budgetary position. There is also the question of retaliation by the foreign countries. Sir, either we have monopolies or we have no monopolies. The report says that except in jute we have no monopolies, and there is danger of other countries coming and competing with us even in that by substitutes. If we have monopolies, where is the hurry for us to enter into an Agreement with England? We need not fear England at all. If we have no monopolies, then surely we must fear retaliation from foreign countries.

The other question is the question of the Import Duties Act, and the announcement of His Majesty's Government that they are going to apply this Import Duties Act by the 15th November if no satisfactory agreements are forthcoming. Although the Government of India may have said in the person of Sir Joseph Bhore, the Commerce Member, that that is not a crucial question, that is exactly what frightened the Indian Delegation to come to this Agreement, because they were saying that on account of the announcement of His Majesty's Government that they would put the Import Duties Act into effect

The Honourable Sir Joseph Bhore: If my Honourable friend would permit me, may I say that there is this difference. Before the Agreement was concluded, the 15th November was a definitely crucial date so far as we were concerned. After the Agreement was concluded, it ceased to be a crucial date.

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): Then you can wait.

[Mr. B. Sitaramaraju.]

As regards jute, it was said that it was a monopoly and as regards the eight crores loss by non-acceptance, in the British market, that trade can be diverted to markets outside the British markets. It will certainly find a place in the markets of foreign countries. I am sure, the Tariff Board will satisfy the Honourable Member for Commerce how the eight crores can be diverted. As regards the three questions which were raised by Sir Joseph Bhore, I would like to answer for him.

Question 1.—Why the delegation went to Ottawa?—They went because the Government of Great Britain wanted them to go.

Question 2.—What did they give and get?—Nobody knew.

Question 3.—Why they have to accept the Agreements?—Because the Conservative majority would have it so.

Mr. S. G. Jog (Barar Representative): I had given an amendment which was substantially the same as that given by my esteemed friend Dr. Ziauddin Ahmad, who is a student of mathematics. There was a slight addition to the amendment which was ultimately adopted by him and I am glad to find that he has scored a victory on me and I was not in a position to move my amendment as my own.

To start with, I would like to say, I would reserve my remarks on the political nature of the measure that is being introduced here. I for one would like to divorce politics from this measure and consider it on its own merits and demerits. Before doing so, I would like to charge the Member in charge of this Resolution with the offence of rash driving. The idea or the policy of free trade which has been in vogue in England for so many centuries is now attempted to be changed and, in England, economists have given great thought to this question and from free trade to protection, from protection to discriminating protection and, after that, the import duties and they have now reached this stage. Probably in England they had ample opportunity of discussing these questions which were before the country for a long time. They have given their consideration to these questions since 1901 and probably the last result was the introduction of the Import Duties Act. Let us consider the position of India. India has all along been playing a subordinate part to British Government in all matters, political as well as fiscal. It is extremely doubtful whether India has got the right to determine her fiscal policy as she likes and, when it was decided to enter into these Agreements, the question was never discussed on the floor of this House and it was all of a sudden given out on the floor of the House to send a few nominated people who fortunately are Members of the House. I should have really criticised their representative character. One of them is a member of our party and is a student of economics of some name and fame. Whatever that may be, he was simply nominated and not elected by this House. But he was simply a nominated representative and he was not elected by this House. That takes away a good deal from the representative character of my Honourable friend, and howsoever eminent he may be, his opinions are open to grave doubt and we have every right to question them. With due respect to him, then, there is that anomaly in his

*Speech not revised by the Honourable Member.

position, namely, his going there as the nominee of the Government and not as a representative of this House. Now, what would he have done if he had gone there as the chosen representative of this House? I leave that to my friends to imagine. I doubt very much whether he would have supported this Agreement or would have used the same arguments as he has now done. However, that is a matter of guess and conjecture, and I have no mind to dilate upon that point any more.

Then, this House is now called upon to pass a verdict upon this Agreement which has been reached. The correspondence, I should say only a partial correspondence, was released for publication only a short time ago. Now we received what is called the Trade Agreement only about 20 days ago. It contains so many Schedules and the note written by the Delegates and all these things which are so full of figures; therefore, naturally you expect people to go through them and to study them, and only in that case alone can they come to a conclusion. I am quite a layman in this respect. I am neither an economist nor an industrialist, but, at the same time, I would like to understand what the real position is. The Honourable Member in charge of the Resolution has himself said that he is not an experienced man in this matter. He can neither judge the consequences of this Agreement in pounds, shillings and pence nor come to an accurate decision as to what the actual result would be. He himself has said that it is a sort of experiment, and he wants to make this experiment or rather thrust it on this House and he wants us to come to a quick and final judgment within two or three days without giving us the opportunity of consulting or having negotiations or conferences with interests that may be affected by this Trade Agreement. It is not one item or commodity that we are dealing with: several commodities we are dealing with, several interests will be affected one way or the other, and yet he wants this House to give a hasty decision on this insufficient material. The arguments advanced have been questioned by equally important students of economics as well as by industrialists. The whole matter, I submit, has to be threshed out by all the interests affected, before this House can be called upon to pass a verdict on such an important issue. You cannot ask this House to take a leap in the dark. Let them consult the best economists of India or any other persons in whom they may have confidence, and let their views be formulated on the results of this Conference. That will then give us some idea as to how we should act before we can pass a verdict upon this thing and before we saddle the whole of India with this financial burden. It is very difficult to say whether this Agreement will end in a gain or in a loss to India. The Honourable Member in charge has simply said that after all it is a guess. I quite admit that there are difficulties in the way, but does it mean that the House should not satisfy itself by a thorough and searching inquiry and a close scrutiny before it passes a final verdict on this important issue? The subject no doubt has attracted the attention of economists of some fame and even they say—I am reading from this pamphlet which I think everybody has got:

"An attempt has been made in this pamphlet to explain in simple language the fruits of such study. It is not pretended that a more intensive study is not possible. In fact it is possible and required. If such an intensive inquiry into the effects of the Agreement on each article of trade can be made by those interested in the same, we shall be in a better position to realize the implications of the Agreement. * * *"

[Mr. S. G. Jog.]

"Even these schools of economics find themselves in a difficulty in coming to an accurate conclusion as regards the effects, the probable effects of this Agreement. Now, there are very few people amongst us who are students of economics, and they can be counted on one finger's ends and the rest or many of them are laymen like myself. I myself want to be convinced as to the efficacy of the Agreement and so far I have kept an open mind as to how I should vote. I am trying to understand these things for the last eight or ten days, but I have not been able to come to any conclusion. My principal difficulty is that the whole thing is so puzzling. (An Honourable Member: "Have you made any head or tail of it?") I am trying my best, but I am afraid the more I read, the more puzzled do I get. (Laughter.) There is a strong desire felt in the House generally to understand the problem and to come to an intelligent conclusion and to give an intelligent verdict. So, instead of rushing through this Resolution, I would earnestly request that some thorough and searching inquiry should be made which will give us some idea as to what the final verdict should be. With these words, I would strongly recommend the amendment moved by Dr. Ziauddin Ahmad and I lend him my entire support and would earnestly request the House also to support him.

The Assembly then adjourned till Eleven of the Clock on Tuesday the 8th November, 1932.

LEGISLATIVE ASSEMBLY.

Tuesday, 8th November, 1932/

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

QUESTIONS AND ANSWERS.

DISCHARGE AND RE-INSTATEMENT OF CERTAIN PERSONS OF THE EAST INDIAN RAILWAY ACCOUNTS DEPARTMENT.

942. *Mr. Nabakumar Sing Dudhoria: (a) Will Government be pleased to state whether it is a fact:

(i) that recruits who had passed Appendix 'B' in the East Indian Railway Accounts Department were discharged with effect from July, 1932;

(ii) that they were re-instated after a month in accordance with the orders of the Controller of Railway Accounts; and

(iii) that the order of re-instatement was subsequently cancelled and that they were treated as re-appointed?

(b) Are Government aware that the discharge of these men who had passed Appendix 'B' was purely due to misapprehension and they were recalled before the expiry of all leave due to them?

(c) If so, do Government propose to reaffirm their re-instatement and treat the period of their unemployment as special casual leave? If not, why not?

Mr. P. R. Rau: (a) (i) and (ii). Yes.

(ii) No. The men were considered as on leave, and their service was treated as continuous with their previous service.

(b) Yes.

(c) Does not arise in view of the reply to part (a) (iii).

RETRENCHMENT IN THE RAILWAY ACCOUNTS DEPARTMENT.

943. *Mr. Nabakumar Sing Dudhoria: (a) Is it a fact that the recruitment in the Railway Accounts Department is done through the channel of an All-India competitive examination as prescribed in Appendix 'B' of the Financial Commissioner of Railways' Memorandum No. 5565-F., dated 31st July, 1929, unlike the system in vogue in the executive departments under the control of the Agent, East Indian Railway?

(b) If so, is it a fact that the length of service is the sole deciding factor in the matter of discharge in the Railway Accounts Department? If so, why?

(c) Is it a fact that an employee may be senior, in accordance with departmental rules, to others who have longer service at their credit?

(d) If so, do Government propose to issue instructions to the effect that future block retrenchments in the Railway Accounts Department should begin from the junior-most irrespective of length of service?

Mr. P. R. Rau: (a) Yes.

(b) During the present retrenchment, it was decided by the Government of India to accept the recommendation of the Railway Court of Enquiry that the length of service principle should be the sole criterion. Consequently, except in the case of such temporary employees as were engaged for purely temporary purposes whose service would be terminated in the ordinary course on the cessation of the work on which they were employed, and temporary employees appointed on or after the 1st January, 1929, who were appointed on the definite understanding that they were employed on a purely temporary basis, pending recruitment of permanent staff under rules, retrenchments have been made on the basis of short service.

(c) Yes.

(d) The question of the rules to be adopted in respect of future block retrenchments will be considered if and when the necessity arises for such retrenchments.

RETRENCHMENT IN THE RAILWAY ACCOUNTS DEPARTMENT.

944. ***Mr. Nabakumar Sing Dudhuria:** (a) Is it a fact that permanent employees entertained against permanent vacancies, which have not been declared as superfluous, cannot be treated as surplus so long as there are temporary men of the same category available?

(b) Is it a fact that permanent men in the East Indian Railway Accounts Department were discharged during the recent retrenchment campaign although there were temporary men available in the same category?

(c) Is it a fact that permanent employees in all other Government Departments are not discharged retaining the services of temporary men, except on the grounds of inefficiency, misbehaviour or superannuation?

(d) Do Government propose to review their decision in the matter? If not, why?

Mr. P. R. Rau: (a) and (c). I would refer the Honourable Member to the reply to question No. 943 in which I have explained the procedure laid down for retrenchment in the Railway Department.

(b) I understand that the permanent men who were served with notice of discharge in preference to temporary men have been taken back.

(d) Government do not propose to reconsider, in connection with the present retrenchment, the principle of discharge according to the shortness of service which, as already explained, they have adopted according to the recommendations of the Railway Court of Enquiry.

RECRUITMENT OF QUALIFIED CLERKS AS ACCOUNTANTS, ETC., IN THE RAILWAY ACCOUNTS DEPARTMENT.

945. ***Mr. Nabakumar Sing Dudhuria:** (a) Is it a fact that 50 per cent of the posts in the grade of Sub-heads in the Railway Accounts Department is to be reserved for qualified clerks who have passed the Appendix 'D' or 'E' or Part II of the Subordinate Railway Accounts Service Examination?

(b) Do Government propose to issue orders for giving the first chance for promotion to the above class of qualified clerks in the grade of Class I or Class II clerks, pending occurrence of vacancies in the grade of Sub-heads or Accountants?

Mr. P. R. Rau: (a) Yes.

(b) No. Government consider that the interests of those so qualified are amply protected. Besides 50 per cent. of sub-head's vacancies being reserved for them, they are granted enhanced rates of yearly increments of pay while they remain in the clerical grades.

The rules for promotion in the clerical grades lay down that subject to satisfactory work, promotion to Class II is not dependent on the passing of any departmental examination while promotion to Class I depends only on passing (Appendix C) examination.

APPLICATION OF THE NEW STATE RAILWAY LEAVE RULES TO THE ACCOUNTS STAFF.

946. ***Mr. Nabakumar Sing Dudhuria:** (a) Is it a fact that the new State Railway leave rules have been made applicable to Accounts staff confirmed from a date prior to the introduction of those leave rules?

(b) Is it also a fact that the employees referred to above were not required to give any declaration that they would come under the new rules on their introduction?

(c) If so, do Government propose to give the option of remaining under the old set of leave rules to the class of staff referred to above?

Mr. P. R. Rau: (a), (b) and (c). On the 5th September, 1928, the Railway Board issued a Circular to the effect that all subordinate staff, who may be recruited on or after the 1st September, 1928, should be required to sign a declaration that when the New Leave Rules for Railway Establishments, which were then under consideration, are promulgated, they would be liable to be brought under their operation. The Leave Rules were published on the 20th February, 1930. The required declaration could not be obtained from the staff in some of the Accounts Offices and the question of allowing such staff the option to remain under the old leave rules is under the consideration of Government.

†947.*

†948.*

†This question was not answered as the Honourable Member (Lieut.-Colonel Sir Henry Gidney) has since resigned.

PASS RULES OF THE MADRAS AND SOUTHERN MAHRATTA RAILWAY.

949. *Mr. K. P. Thampan: (a) Will Government be pleased to state if it is a fact:

- (i) that according to rule 67 (b) of the pass rules of the Madras and Southern Mahratta Railway, lady typists are entitled only to second class pass irrespective of their pay;
- (ii) that a lady typist in the service of Madras and Southern Mahratta Railway by name Miss K. Schembry was enjoying a second class pass all along;
- (iii) that after the acting Agent of the Madras and Southern Mahratta Railway took charge, he ordered that a first class pass should be given to her;
- (iv) that when a second class pass was issued to her as per rules to enable her to travel from Bangalore to Madras in June, 1982, he altered the second into a first class pass?

(b) Will Government be pleased to state whether a first class pass to a lady typist is admissible under the rules and, if alteration of a second class pass to first class is warranted by the pass rules of the Madras and Southern Mahratta Railway?

Mr. P. R. Rau: With your permission, Sir, I propose to reply to questions Nos. 949 and 950 together.

The issue of passes is a matter within the discretion of the Railway Company, and Government do not consider that in the cases, mentioned by the Honourable Member, their intervention is called for.

PASSES GRANTED TO PERSONS OTHER THAN RAILWAY EMPLOYEES OF THE MADRAS AND SOUTHERN MAHRATTA RAILWAY.

† 950. *Mr. K. P. Thampan: (a) Will Government be pleased to state if it is a fact:

- (i) that the Andhra Desa Railway Passengers Association at Chirala helped the Madras and Southern Mahratta Railway Administration through the District Traffic Superintendent of Bezwada in doing publicity in the villages in regard to Pushkaram;
- (ii) that the Association requested the Agent to give a pass in favour of two of its workers to go and assist pilgrims in the Pushkaram festival; and
- (iii) that the Agent refused to comply with the request, as not being admissible under the rules?

(b) Will Government be pleased to lay on the table a list of persons who are not Railway employees but have been granted passes by the Agent of the Madras and Southern Mahratta Railway?

LOANS ADVANCED BY CERTAIN INSURANCE COMPANIES TO THEIR DIRECTORS.

951. *Mr. K. P. Thampan: (a) Are Government aware that certain insurance companies in this country have advanced large sums as loans to some of their directors and to business concerns in which they are interested with the result that the very solvency of the companies is threatened?

† For answer to this question, see answer to question No. 949.

(b) Will Government please state whether, with a view to safeguarding the interests of the policy-holders, they propose to take any immediate action, executive or legislative, to prevent this abuse?

The Honourable Sir Joseph Bhoré: (a) Government are aware that certain Insurance Companies in this country have advanced loans of varying amounts to some of their Directors and to business concerns in which the latter are interested, but they cannot say whether the solvency of these Companies is threatened thereby.

(b) Does not arise.

REDUCTION IN THE NUMBER OF OFFICERS IN THE GREAT INDIAN PENINSULA RAILWAY.

952. *Mr. K. P. Thampan: Will Government be pleased to state:

- (a) if it is a fact that in pursuance of the retrenchment policy the number of gazetted officers in the Great Indian Peninsula Railway was reduced from 245 in 1928-30 to 230 in 1980-81;
- (b) whether their number was further retrenched in 1981-82;
- (c) if the direct effect of the reduction of the 15 officers was an increase in their cost by Rs. 83,638; and
- (d) what the increase would be in the cost of the gazetted officers in the Great Indian Peninsula Railway in 1981-82 over their cost in 1929-30?

Mr. P. R. Rau: (a) and (c). No such reduction was made.

(b) The gazetted cadre of the Great Indian Peninsula Railway was reduced in 1931-32.

(d) The number of officers has been decreased and there have been no increases in scales of pay consequently, except for automatic increases due to the time-scales of pay, the cost should decrease rather than increase.

ERECTION OF A RICKSHAW SHED NEAR ASSEMBLY CHAMBER, SIMLA.

953. *Kunwar Hajee Ismail Ali Khan: (a) Will Government be pleased to state what arrangements they have made during the Assembly Sessions at Simla to protect the rickshaw coolies from rain and sun, who bring in the Members to the Chamber, and stay on for the return journey?

(b) If the answer to part (a) be in the negative, do Government propose to erect a shed somewhere near the Council House?

Mr. T. Ryan: In the unavoidable absence of the Honourable Member in charge of the Department, I wish to answer, with your permission, Sir, the questions for him.

(a) and (b). No special arrangements are made, but the rickshaw coolies, bringing Members to the Legislative Assembly building, may take shelter during wet weather in the shed in the compound of the Industries and Labour Department office building which is close at hand. There is no suitable place near the Assembly building for a special rickshaw shed.

ERECTION OF A MOTOR SHED NEAR COUNCIL HOUSE, NEW DELHI.

954. *Kunwar Hajee Ismail Ali Khan: (a) Is it a fact that there is no shelter for the motor cars of the Members of the Assembly near the Council House, New Delhi, to protect the cars and drivers from rain and sun which cause great inconvenience to the Honourable Members?

(b) If so, do Government propose to erect a motor shed at the parking place to protect the cars and charge reasonable rent from the Members?

Mr. T. Ryan: (a) There is so little rain in New Delhi during the winter that it is not thought that the inconvenience mentioned by the Honourable Member can really be very great.

(b) The garages provided for Members of the Legislative Assembly near their quarters in New Delhi are within a short distance of the Council House, and, as most Honourable Members employ drivers, it seems to Government hardly necessary to provide covered motor sheds at the parking place near the Council House. Government are naturally anxious, particularly at the present time, to avoid expenditure on projects which are not absolutely essential.

Mr. Muhammad Yamin Khan: Do the Government realise that there can be protection from the rain, but there can be no protection from the sun in the month of March when it is very hot and the drivers of the motor cars burn themselves in the sun the whole day?

Mr. T. Ryan: I can undertake, Sir, to have the matter further examined with reference to the observations the Honourable Member has just made.

Dr. Ziauddin Ahmad: May I ask, Sir, whether it is not possible to provide sheds all round where the motor cars now stand?

Mr. T. Ryan: I think that to provide a shelter which would be in keeping with the neighbouring building would probably be rather expensive. The Honourable Member's suggestion will, however, be considered further.

Kunwar Hajee Ismail Ali Khan: Has any recommendation been made by the House Committee on this subject?

Mr. T. Ryan: I have not dealt personally with this matter, but I believe there has been some reference to it.

FREE SUPPLY OF PUBLICATIONS OF THE PROVINCIAL GOVERNMENTS TO THE MEMBERS OF THE CENTRAL LEGISLATURE.

955. *Kunwar Hajee Ismail Ali Khan: (a) Are Government aware that the Members of the Central Legislature from Bengal get all the publications of that Government free, viz., the *Calcutta Gazette*, the *Civil List* and their Administration and other Reports, together with the proceedings of the Bengal Council?

(b) If the answer to part (a) be in the affirmative, are Government prepared to issue instructions to other Provincial Governments as well to follow Bengal in the matter of the free supply of their publications to their respective Members of the Central Legislature?

The Honourable Sir Brojendra Mitter: (a) The Government of India have no information.

(b) The Government of India are not in a position to issue instructions to the Local Governments on the subject, but a similar request from an Honourable Member of the House was brought to the notice of the Local Governments in 1921.

CONSOLIDATED ALLOWANCES OF TICKET COLLECTORS ON THE EAST INDIAN RAILWAY.

956. *Kunwar Hajee Ismail Ali Khan: (a) Will Government be pleased to state why the old ticket collectors utilised in the crew system were not paid a consolidated allowance during station duty?

(b) Is it a fact that in the last days of the system the Railway started giving them the same?

(c) Is it a fact that it has now been ruled by the Agent, East Indian Railway, that those ticket collectors who did not accept crew scales of pay are not eligible for the consolidated allowance?

(d) Was any option given to them to accept the crew scales?

(e) Is it a fact that according to the correspondence embodied in the Secretary to the Agent's docket No. A. E.-2293, dated 20th January, 1931, to the Chief Operating Superintendent, the old ticket collectors on being designated as crewmen and crew incharges were entitled to this consolidated allowance on station duty?

(f) Will Government be pleased to lay on the table a copy of the whole correspondence embodied in the said docket?

(g) Is it a fact that according to the Chief Accounts Officer's minutes, No. E.-36-241/83, dated 22nd December, 1930, and E.-35-241/83, dated 13th January, 1931, the old ticket collectors, whether governed by old Company's rules or new crew rules, were entitled to consolidated allowance whether on the line or on station duty?

Mr. P. R. Rau: With your permission, Sir, I reply to questions Nos. 956, 957 and 958 together. I have called for information and will lay a reply on the table, in due course.

IGNORING THE CLAIMS OF OLD TRAVELLING TICKET INSPECTORS ON THE EAST INDIAN RAILWAY.

†957. *Kunwar Hajee Ismail Ali Khan: (a) Will Government be pleased to state why on the East Indian Railway some of the old Travelling Ticket Inspectors are utilised as Ticket Collectors and many crewmen who never handled excess fare ticket books have been given preference as Travelling Ticket Examiners?

(b) Is it a fact that those Travelling Ticket Inspectors who are now utilised as Ticket Collectors were recommended by the Operating Department for the job of Travelling Ticket Inspectors as acknowledged in reply to question No. 1110 (d) in the Legislative Assembly, dated the 18th March, 1929?

(c) On being reverted back to their own Department, why were they not utilised as Travelling Ticket Examiners?

(d) Will Government be pleased to state how many of the Crew Inspectors with temporary service were utilised as Ticket Collectors on the inauguration of the Moody-Ward system?

†For answer to this question, see answer to question No. 956.

Mr. K. Ahmed: Since the time notice of this question was given, has the Department of my Honourable friend taken any steps to give a warning that the postmaster in question should not be negligent like this in future?

Mr. T. Ryan: It is so very exceptional an occurrence that special steps hardly seem necessary; but we have taken up the particular case to make certain that no misunderstandings such as led to it shall recur.

FUTURE STATUS OF BERAR IN THE NEW CONSTITUTION.

963. ***Dr. Ziauddin Ahmad** (on behalf of Mr. S. G. Jog): (a) Are Government prepared to make any statement now as to the future status of Berar in the new constitution?

(b) If not, when do Government propose to make a statement on the above matter?

Mr. H. A. F. Metcalfe: (a) No, Sir.

(b) The Honourable Member's attention is invited to the reply given by Sir Evelyn Howell in this House to a similar question by Mr. Gaya Prasad Singh on the 25th January, 1932. The position has not changed since.

ATTENDANCE OF POSTAL OFFICIALS ON SUNDAYS AND GAZETTED HOLIDAYS.

964. ***Dr. Ziauddin Ahmad** (on behalf of Mr. S. G. Jog): (a) Is it a fact that some departments of the Bombay, Madras, Calcutta and Rangoon General Post Offices remain closed on Sundays and other postal holidays and clerks attached to those departments are not required to work on Sundays or postal holidays while clerks working in other departments are required to work on Sundays and Post Office holidays?

(b) Is it a fact that clerks who work in no-delivery sub-offices in Bombay, Madras, Calcutta and Rangoon are similarly exempted from attending office on Sundays and postal holidays, while clerks working in delivery post offices are required to attend office on Sundays and postal holidays?

(c) Will Government please state why the clerks working in the same department are treated in different ways, why a section of clerks enjoy all holidays while others have to attend office?

(d) Do Government propose to order the clerks who now enjoy all holidays to attend office on some holidays in order to give some more relaxation to those who are now required to attend office on holidays? If not, why not?

Mr. T. Ryan: (a) and (b). The facts are substantially as stated.

(c) and (d). Work on Sundays and holidays is recognised as a condition of service in the Postal Department; but in order to minimise the disability, instructions have been issued that a rotation of duties should be arranged, as far as the exigencies of the service permit, among the whole staff of an office, so that the turn for any individual to work on Sundays and holidays may recur as seldom as possible.

PERIODICAL TRANSFER OF CERTAIN POSTAL OFFICIALS.

965. ***Dr. Ziauddin Ahmad** (on behalf of Mr. S. G. Jog): (a) Is it a fact that clerks attached to the Appointment Branch of the Bombay, Madras, Calcutta and Rangoon General Post Offices are working for many years in that particular department while other clerks are transferred frequently?

(b) Is it a fact that under orders of the Director General, Head Clerks of the Appointment Section are transferred after three years? If so, why are other clerks not similarly transferred?

Mr. T. Ryan: (a) Government have no information: the matter is within the competence of the Postmasters-General concerned.

(b) The reply to the first part is in the affirmative. As regards the second part, Government do not consider that the periodical transfer of the whole clerical staff of a Section is either necessary or desirable in view of the confusion and dislocation of work which would result.

MIGRATION OF SOME RESIDENTS OF THE ALWAR STATE TO BRITISH INDIA.

966. ***Mr. M. Maswood Ahmad:** (a) Are Government aware that some residents of Alwar State have migrated to British India?

(b) Have Government enquired as to how many persons have so migrated, and why? How many of them have come to Delhi?

(c) Are Government aware that these emigrants from Alwar are staying in a maidan to the west of the Juma Masjid, Delhi? Will Government please state their number?

(d) Are all these emigrants Muslims or do they belong to any other community also?

(e) Are Government aware of the arrangements for their boarding and lodging?

(f) Have Government rendered any kind of help to them?

(g) Are Government in a position to state whether these persons have come to settle permanently or temporarily in British India?

(h) Have Government entered into any correspondence with the Alwar State on this matter?

(i) How many persons, to the knowledge of the Government, have gone back to Alwar and how many are still in British India?

Mr. H. A. F. Metcalfe: (a) Yes.

(b) Government have no accurate information.

(c) Yes. Their number alters from time to time, but at one period there were perhaps eighty to a hundred.

(d) It is believed that they are all Muslims.

(e) Government have no accurate information.

(f) No.

DISORANGE AND RE-APPOINTMENT OF SOME TRAVELLING TICKET INSPECTORS ON THE EAST INDIAN RAILWAY.

†958. *Kunwar Hajee Ismail Ali Khan: (a) Will Government be pleased to state if it is a fact that on the inauguration of the Moody-Ward system on the East Indian Railway, four old Travelling Ticket Inspectors were given notice of discharge in the Lucknow Division, but that the notice was subsequently cancelled?

(b) What was the cause of the discharge and subsequent cancellation of the same?

(c) On what job and pay have those Travelling Ticket Inspectors now been utilised?

(d) Are there same or different rules concerning the staff on different divisions of the East Indian Railway?

RECRUITMENT OF MUSLIMS IN THE SIMLA POST OFFICE.

959. *Shaikh Fazal Haq Piracha: (a) Will Government kindly state what was the strength of the permanent Muslim officials in the Simla Post Office in the cadre of lower division clerks, head postmen, postmen, packers and runners before the issue of the Director General's General letter No. Am.-516/12/27?

(b) How many vacancies occurred after the issue of this letter up to this time?

(c) How many of them were given to Muslims, and in what proportion?

(d) If none was given to Muslims, why, and what action do Government propose to take in the matter?

(e) Is it a fact that all the recruiting officers such as Telegraph Inspectors, Inspectors of Post Offices, Accountant and Appointment Clerks and Head Clerk Correspondence have been non-Muslims for the last ten years? If so, what action do Government propose to take to replace them by Muslims to ensure Muslim recruitment in future?

Mr. T. Ryan: (a) Seven.

(b) 109.

(c) Three posts were abolished and 11 are vacant. 55 vacancies were filled up by the promotion of departmental officials, of whom one is a Muslim and 54 non-Muslims. The remaining 40 vacancies were filled up by direct recruits, of whom one is a Muslim and 39 are non-Muslims.

(d) Government are enquiring into the matter and will place on the table a report of the action taken, in due course.

(e) There is no Inspector of Post Offices or Telegraph Inspector attached to the Simla Post Office, and none of the remaining officials mentioned in the first part of the question has any power of recruitment. The latter part of the question does not, therefore, arise.

HEAD CLERKS OF THE OFFICE OF THE POSTMASTER GENERAL, LAHORE.

960. *Shaikh Fazal Haq Piracha: Is it a fact that the Head Clerks of all the branches of the Post Master General's Office, Lahore, are Hindus?

†For answer to this question, see answer to question No. 956.

Mr. T. Ryan: Yes, except that the Assistant Manager, Circle Stock Depot, whose status is that of a Head Clerk, is a Muslim and that the appointment of another Muslim to one of the Head Clerks' posts has recently been ordered.

APPOINTMENT OF MUSLIMS AS HEAD CLERKS, ETC., IN THE OFFICE OF THE POST MASTER GENERAL, LAHORE.

961. *Shaikh Fazal Haq Piracha: (a) Is it a fact that the Muslim Head Clerk of the Appointment Branch in the Post Master General's Office, Lahore, who worked there less than two years has recently been removed from there in spite of the fact that he had not completed the prescribed period of three years?

(b) Is it a fact that second and third clerks of the Post Master General's Office, Establishment Branch, are non-Muslims?

(c) If the answer to these questions be in the affirmative, what action do Government propose to take to replace them by Muslims?

Mr. T. Ryan: (a) and (b). Government have no information.

(c) Head clerkships are selection grade posts and, as has been frequently stated on the floor of this House, appointments to such posts are regulated without reference to communal considerations. As regards the other posts, Government are not prepared to take any action except to see that in direct recruitment to Government service their orders for the protection of the rights of minority communities are properly observed. The Honourable Member's attention is also invited to the reply given by the Honourable Sir James Crerar to Mr. Muhammad Anwar-ul-Azim's starred question No. 340 in the Legislative Assembly on the 16th September, 1931.

DELAY IN THE DESPATCH OF A NEWSPAPER OF BERAR DUE TO SHORTAGE OF POSTAGE STAMPS IN THE POST OFFICE.

962. *Dr. Ziauddin Ahmad (on behalf of Mr. S. G. Jog) (a) Is it not a fact that an issue, dated the 2nd August, 1932, of a leading newspaper of Berar named *Udaya*, printed and published at Amraoti, could not be despatched on account of shortage of postage stamps in the post office?

(b) If so, will Government state whether such contingencies occur in other branches of post offices?

(c) Do Government propose to get over such difficulty by empowering the Post Master to take cash and despatch the issue?

(d) If not, are Government prepared to enquire into the matter with a view to finding out some other remedy to get over such difficulty?

Mr. T. Ryan: (a) Yes.

(b) No

(c) and (d). The Post Office rules prescribe that the postmaster is responsible for maintaining a sufficient stock of postage stamps of all kinds for sale to the public. The situation complained of by the Honourable Member was a very exceptional occurrence and Government do not propose to adopt any special measures to meet such exceptional cases, nor do they consider it desirable to empower all post offices to accept cash payment in lieu of postage, as such a course would be open to abuse.

PROMOTION OF MUSLIMS TO CLASS "D" OF PARCEL CLERKS ON THE NORTH WESTERN RAILWAY.

†971. *Mr. M. Maswood Ahmad: (a) What are the scales of pay for the different classes of the parcel clerks in the North-Western Railway?

(b) Is it a fact that there is not a single Muslim in class D of the parcel clerks in all the seven divisions of the North-Western Railway?

(c) Is it a fact that promotion from class C to D is not based on any competitive examination, rather it depends on the officer's choice?

(d) Are Government prepared to consider the advisability of issuing instructions to the effect that Muslims may be promoted to class D and to superior posts of parcel clerks?

RESIGNATION OF MEMBERS AND OFFICE-BEARERS OF THE WORKS COMMITTEE, GOVERNMENT OF INDIA PRESS, NEW DELHI.

972. *Mr. M. Maswood Ahmad: Has the attention of Government been drawn to a statement published in the *Alaman* of Delhi, dated the 5th August, 1932, regarding the resignation of the members and office-bearers of the Works Committee of the Government of India Press, New Delhi, on account of certain grievances and injustice done to them? If so, what action has been taken to remove those grievances?

Mr. T. Ryan: Yes. An enquiry has been made and Government have been informed by the Controller of Printing and Stationery that there is no basis for the suggestion made in the newspaper report that the cause of the resignation of the members of the Works Committee was unjust treatment by the executive officers of the Press. The resignations have since been withdrawn.

APPOINTMENT OF MUSLIM PEONS IN THE GOVERNMENT OF INDIA PRESS, NEW DELHI.

978. *Mr. M. Maswood Ahmad: What is the permanent strength of peons in the Government of India Press, New Delhi, and how many of them are Muslims? If none, what steps do Government propose to take to make up the deficiency?

Mr. T. Ryan: The strength is nine; none of the permanent peons is a Muslim. No appointments are contemplated at present as there are no vacancies.

APPOINTMENT OF MUSLIM CLERKS IN THE GOVERNMENT OF INDIA PRESS, NEW DELHI.

974. *Mr. M. Maswood Ahmad: Will Government please state whether there has been any increase in the percentage of the permanent Muslim clerks of the Government of India Press, New Delhi, since 1929, and during this period how many vacancies fell vacant and how many were filled by Muslims? What action do Government propose to take in order to increase the percentage of Muslims in the permanent cadre of the Press?

Mr. T. Ryan: There has been no increase in the percentage of the permanent Muslim clerks in the Government of India Press, New Delhi.

†For answer to this question, see answer to question No. 970.

since 1929. There have been three vacancies since 1929, all of which were given to non-Muslims. I may explain that no direct recruitment is made to the permanent clerical establishment of this Press. There are a number of men in the temporary and fluctuating clerical establishment of the Press and vacancies in the permanent establishment have hitherto been given to the most deserving men in the temporary and fluctuating establishment, irrespective of the communities to which they belong. The question of applying the orders regarding minority representation to transfers from the temporary to the permanent establishment is being examined.

COMMUNAL COMPOSITION OF THE CLERICAL ESTABLISHMENT OF THE GOVERNMENT OF INDIA PRESS, NEW DELHI.

975. *Mr. M. Maswood Ahmad: Will Government be pleased to lay on the table a statement showing the number of permanent incumbents of each community holding different grades in the clerical establishment of the Government of India Press, New Delhi?

Mr. T. Ryan: A statement furnishing the required information is laid on the table.

Statement showing the number of permanent incumbents of each community holding different grades in the Clerical Establishment of the Government of India Press, New Delhi.

Appointment or grade.	Hindus.	Muslims.	Sikhs.	Christians.	Total.
Head Assistant	1	..	..	..	1
Accountant and Cashier . .	1	..	..	..	1
General Store Keeper . . .	1	..	..	..	1
Head Computer	1	..	..	..	1
Assistants	3	..	..	..	3
Upper scale Clerks and Computers	10	2	..	..	12
Lower scale Clerks and Computers	11	5	1	1	18
Caretaker and Transit Clerk .	1	..	..	..	1

APPOINTMENT OF MEMBERS OF MINORITY COMMUNITIES IN THE CLERICAL ESTABLISHMENT OF THE GOVERNMENT OF INDIA PRESS, NEW DELHI.

976. *Mr. M. Maswood Ahmad: Is it a fact that all higher posts in the clerical establishment of the Government of India Press, New Delhi, are held by non-Muslims? If so, do Government propose to give effect to their declared policy of avoiding the preponderance of any one community or class in the services?

Mr. T. Ryan: There are no Muslims in any clerical post in the Press higher than that of upper scale clerks and computers. These higher clerical posts are usually filled by promotion, and promotions from one grade to another are not made with reference to communal considerations.

- (g) No.
 (h) Yes.
 (i) The information is not available.

Mr. M. Maswood Ahmad: Have Government seen the book called "Alwarnama" printed at Alaman Press and compiled by Abdul Akhtar Khizary and published by Hakim Mohamad Ishaq, Secretary, Anjuman Rhuddame Mahajirins, Alwar?

Mr. H. A. F. Metcalfe: I personally have not seen it and I do not know whether it has been seen by the Government of India.

Mr. M. Maswood Ahmad: Do Government propose to see the book, because there are very serious allegations in that book against the Alwar State?

Mr. H. A. F. Metcalfe: If the Honourable Member will send me a copy of that book, I will see that it is sent to the Department concerned.

MOSQUES AND TEMPLES IN POSSESSION OF GOVERNMENT.

967. ***Mr. M. Maswood Ahmad:** Will Government kindly state how many (i) mosques and (ii) temples are still in their possession in which religious worship is entirely forbidden?

Mr. G. S. Bajpai: Religious worship is not forbidden in any of the mosques and temples belonging either to Government or to private persons or bodies, which are protected under the Ancient Monuments Preservation Act, 1904 (VII of 1904) and maintained from Central revenues.

Mr. M. Maswood Ahmad: Are Government aware that a mosque named Nawab Khan Jahan Mosque near Qutab Road, Delhi, has been converted into a hospital under the Municipal Committee and many such mosques and temples are unjustly and improperly used by Government and by local bodies?

Mr. G. S. Bajpai: Government are not keeping information about every mosque in the neighbourhood of Delhi. The Honourable Member's question related to mosques protected under the Ancient Monuments Preservation Act and my reply deals with such mosques.

Mr. M. Maswood Ahmad: Do Government propose to consider the desirability of holding an enquiry regarding the number of mosques and temples and other places of worship which are now in possession of Government or of local bodies?

Mr. G. S. Bajpai: I am afraid, Sir, that, as I have already stated, it is not possible for Government to take action in regard to all mosques. If there is any particular mosque which is being misused, perhaps the Honourable Member will bring the matter to the notice of the authority concerned.

NUMBER OF MUSLIMS ARRESTED AND IMPRISONED UNDER THE ORDINANCES.

968. ***Mr. M. Maswood Ahmad:** Will Government kindly lay on the table separately the number of Muslims arrested and imprisoned under the different Ordinances up-to-date in various provinces?

The Honourable Mr. H. G. Haig: The information is not available and I do not feel justified in putting Local Governments to the labour of collecting it.

AHRAR PRISONERS CONVICTED IN CONNECTION WITH KASHMIR MOVEMENT.

969. ***Mr. M. Maswood Ahmad:** (a) How many Ahrars who were convicted in connection with the Kashmir movement are still in jail?

(b) Will the cost of these prisoners be paid by the Government of India or the Provincial Government?

The Honourable Mr. H. G. Haig: (a) 56.

(b) The matter is under consideration.

Dr. Ziauddin Ahmad: Is it not a fact that the reasons for which they were put in jail no longer exist and is it not, therefore, desirable to release them now and give them amnesty?

The Honourable Mr. H. G. Haig: I understand that a great majority of the prisoners who were imprisoned in connection with the movement have already been released.

Dr. Ziauddin Ahmad: I understood the Honourable Member to say that there were still 56 prisoners. Can it not be applied to them?

The Honourable Mr. H. G. Haig: One cannot accept the principle that a person imprisoned in connection with a certain movement must always be released the moment that movement comes to an end.

Dr. Ziauddin Ahmad: Is it not a fact that that movement has come to an end and, therefore, they may be released now?

The Honourable Mr. H. G. Haig: I understand that it has come to an end.

PARCEL CLERKS ON THE NORTH WESTERN RAILWAY.

970. ***Mr. M. Maswood Ahmad:** (a) Is it a fact that there are four classes of parcel clerks on the North-Western Railway?

(b) Is it a fact that there are three superior posts for parcel clerks, i.e., two at Delhi and one at Lahore?

(c) Will Government please state the number of different communities in the superior posts of parcel clerks?

(d) What is the pay of the present parcel clerks in superior posts?

Mr. P. R. Rau: With your permission, Sir, I shall reply to this and the next question together.

I am obtaining certain information from the Agent, North-Western Railway, and will lay a reply on the table in due course.

MEDICAL LEAVE GRANTED TO THE EMPLOYEES OF THE GOVERNMENT OF INDIA PRESS, NEW DELHI.

977. *Mr. M. Maswood Ahmad: Will Government be pleased to furnish a statement regarding the period of medical leave granted to Muslim and non-Muslim employees of the Government of India Press, New Delhi, for the last two years? How many Muslims and non-Muslims were sent to the Chief Medical Officer, Delhi, for the countersignature of their medical certificates?

Mr. T. Ryan: The Controller of Printing and Stationery is responsible to Government generally for the efficient administration of the Government of India Presses and Government do not propose to call for information on minor matters relating to such administration, particularly where, as in this case, the compilation of the information desired would entail an amount of time and trouble entirely disproportionate to the value of the result.

REPLACEMENT OF MUSLIM CLERKS BY LADY CLERKS IN THE QUARTER-MASTER-GENERAL'S BRANCH.

978. *Mr. M. Maswood Ahmad: (a) Will Government kindly state the proportion which the number of permanent Muslim Superintendents, Assistants and clerks in the Quarter-Master General's Branch bears to the total cadre of the above ministerial establishment in that branch?

(b) Is it a fact that last year about ten Muslim clerks working in that office were given notices of discharge from service? If so, what was the reason for giving the notices in question?

(c) Is it also a fact that these notices were withdrawn a few days later and the persons concerned were allowed to re-join their previous posts? If the reply to this be in the affirmative, what were the reasons for withdrawing the notices?

(d) Is it also a fact that a number of these clerks were again discharged from the service a few months later and were replaced by lady clerks?

(e) Will Government state the reasons for this action, and what was the advantage that accrued to the State by this action?

(f) What are the educational and other qualifications of these lady clerks.

(g) Are the lady clerks in question Europeans, Anglo-Indians or Indian Christians?

(h) Why were the Muslim clerks discharged to make room for these lady clerks?

Mr. G. R. F. Tottenham: (a) 20 per cent.

(b) and (c). Notices were served on six unqualified temporary clerks, of whom two were Hindus and four Muslims, because it was desired to replace them by qualified candidates. The notices served on the Muslim clerks were subsequently withdrawn, because no qualified Muslim candidates were available to replace them.

(d) and (e). Three of these Muslims were eventually discharged, because the permanent appointments in which they were temporarily employed

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were reduced as an economy measure. The fourth was discharged on the return to the Branch of a permanent clerk in whose place he had been employed. They were not replaced by lady clerks.

(f), (g) and (h). Do not arise.

PAUCITY OF MUSLIMS IN CERTAIN POSTS IN DAIRY FARMS.

979. *Mr. M. Maswood Ahmad: (a) Will Government kindly state the number of (i) managers, (ii) supervisors, (iii) assistant supervisors, (iv) apprentices employed in dairy farms, and (v) clerks employed in dairy farms?

(b) How many of them are Muslims in each category?

(c) Will Government kindly state the reasons for the paucity of Muslims in these posts, and what steps have been taken to increase their number to the proper proportion?

Mr. G. R. F. Tottenham: (a) and (b). A statement is laid on the table.

(c) As the Honourable Member is no doubt aware, the orders of Government regarding the redress of communal inequalities refer only to fresh recruitment and have not been in force for a great many years. I can assure the Honourable Member that these orders are strictly observed and since 1930, 11 out of 49 vacancies in the Military Dairy Farms Department have been given to Muslims.

Statement.

	Military Dairy Farms Department.			Civil Dairy Farms attached to the Imperial Institute of Agricultural Research, Pusa.	
	Total No.	No. of Muslims.		Total No.	No. of Muslims.
Managers . . .	27	..	Superintendents . . .	2	..
Supervisors . . .	29	4	Assistant Superintendent . . .	1	..
Assistant Supervisors . . .	32	3	Supervisors . . .	7	1
Apprentices . . .	74	9	Clerks . . .	8	..
Clerks . . .	93	10			

† 1930*—1931.*

IMPORT DUTIES COLLECTED ON MOTORS, TYRES, ETC.

982. *Sir Leslie Hudson: Will Government be pleased to state the amount collected in import duties on (a) motor lorries and buses, (b) motor cars, and (c) tyres, for the six months January to June, 1930, 1931 and 1932?

† These questions have already been answered; see pages 1613-14 of L. A. Debates, dated 30th September, 1932.

The Honourable Sir Alan Parsons: I lay on the table such information as is contained in the records that are available.

Estimated amount of duty collected on (1) motor buses and lorries, (2) motor cars, motor cycles, motor scooters and their accessories, and (3) rubber tyres and tubes, during the months January to June 1930, 1931 and 1932.

Articles.	Duty collected during the months January to June.		
	1930.	1931.	1932.
	Rs.	Rs.	Rs.
(1) Motor omnibuses, motor vans and motor lorries	14,85,254	10,72,106	6,68,256
(2) Motor cars, motor cycles, motor scooters and accessories and parts thereof	42,31,502	37,66,525	24,22,559
(3) Pneumatic rubber tyres and tubes for motor cars, motor lorries, motor cycles and motor scooters	16,94,264	16,57,931	16,78,166

UTILISATION OF THE PETROL TAX ON THE DEVELOPMENT OF ROADS.

983. ***Sir Leslie Hudson:** (a) Are Government aware that for the period since the two-anna petrol tax was introduced up to the 30th September, 1931, Rs. 233½ lakhs have been collected, of which Rs. 170 lakhs have been distributed with respect to Revenue up to the 30th September, 1930, but only Rs. 42½ lakhs were reported to have actually been spent up to the 30th September, 1931?

(b) If so, what action, if any, have Government taken to press Provincial Governments to expedite the expenditure of these funds on those schemes for which the Central Standing Committee for Roads have authorised the grants?

(c) If not, have Government considered the question of taking action and also of recommending that the Standing Committee for Roads refuse further grants to those Provinces who are dilatory in pushing forward road development schemes and the question of distributing such amounts amongst those provinces which show an active interest in road development?

(d) If legislation is required to make this possible, are Government prepared to take the necessary action?

Mr. T. Ryan: (a) Yes, except that the expenditure reported up to the 30th September, 1931, is Rs. 48.42 lakhs and not Rs. 42½ lakhs, as assumed by the Honourable Member.

(b) Government have not taken any action to press Provincial Governments to expedite expenditure.

(c) and (d). No. Such action would not be in accordance with the Resolution on the subject adopted by this House and by the Council of State. In this connection I may explain that the road development

account was intended to supplement previous road building activities and to enable new works beyond the scope of the then existing schemes and programmes of development to be financed. The financial depression and the consequent inevitable curtailment of existing provincial programmes have caused a certain amount of dislocation and re-arrangement to which the slowness of expenditure in certain cases can be attributed. There has, however, been marked progress in expenditure in the Provinces since September, 1931, and I may mention that excluding Rs. 28.70 lakhs sanctioned as loans from the fund the Provinces had spent, by the end of June, 1932, a total sum of Rs. 82.24 lakhs from sums allotted to them from the Road Development Account.

Sir Leslie Hudson: The tax was previously eight annas of which two annas went to the Road Fund. Twelve months ago, a surcharge of 25 per cent. on this eight annas was imposed. May I know if the proportion of the surcharge relating to two annas is being credited to the Road Fund now?

The Honourable Sir Alan Parsons: I shall have to verify the point before I can give a reply to the Honourable Member. I will lay a statement containing the information on the table in due course.

TERMS OF CONTRACT WITH THE BENGAL AND NORTH WESTERN RAILWAY.

984. ***Dr. Ziauddin Ahmad:** Will Government lay on the table the final contract with the Bengal and North Western Railway? Did the contract include any provision for maintaining the equipment and administration in an efficient manner?

Mr. P. R. Rau: The final contract is still, I believe, under preparation.

TERMS OF CONTRACT WITH THE SHAHDARA-SAHARANPUR LIGHT RAILWAY.

985. ***Dr. Ziauddin Ahmad:** What are the terms of the contract between Government and the Shahdara-Saharanpur Light Railway running between Shahdara and Saharanpur? When will the contract expire? Did Government renew the contract recently?

Mr. P. R. Rau: I would refer the Honourable Member to page 229 of the History of Indian Railways, a copy of which is in the Library. The contract can be terminated on the 18th April, 1934.

The United Provinces Government did not exercise their option of terminating the contract seven years earlier.

Dr. Ziauddin Ahmad: Is it necessary in this case to give one year's notice?

Mr. P. R. Rau: I believe so.

Dr. Ziauddin Ahmad: What is the last date for giving notice?

Mr. P. R. Rau: I believe somewhere in April, 1933.

Dr. Ziauddin Ahmad: Are Government contemplating to give notice?

Mr. P. B. Rau: It is the United Provinces Government that can give notice.

ABSENCE OF WATER CLOSETS, ETC., IN THE THIRD CLASS CARRIAGES OF THE SHAHDARA-SAHARANPUR LIGHT RAILWAY.

986. ***Dr. Ziauddin Ahmad:** (a) Are Government aware that water closets are not provided in third class carriages in Shahdara-Saharanpur Light Railway? Are not passengers harassed and charged if they use inter class water closets?

(b) Are Government aware that passengers are kept waiting for an unreasonable time at level crossings? Has any one given notice to recover damages from the Secretary of State for such wrongful detention?

Mr. P. B. Rau: (a) I would refer the Honourable Member to the reply I gave to Lala Hari Raj Swarup's question No. 698 on the 23rd September, 1932. Government have no information as regards the latter part of this question.

(b) Government have no information, but I am bringing the Honourable Member's question to the notice of the Managing Agents of the Railway for such action as they consider necessary.

RATE-WAR AGAINST THE BENGAL BURMAH STEAM NAVIGATION COMPANY.

987. ***Dr. Ziauddin Ahmad:** (a) Are Government aware that the British India Steam Navigation Company sent the Bengal Steam Navigation Company to liquidation in 1910 by waging a rate-war and that they are waging a similar rate-war against the Bengal Burmah Steam Navigation Company?

(b) Are Government prepared to use their influence and stop rate-war? Is it not a fact that the British India Steam Navigation Company increased their fares between Chittagong and Rangoon from Rs. 12 to Rs. 14 and reduced it to Rs. 8 as soon as the Bengal Burmah Steam Navigation Company was formed?

(c) Are Government prepared to hand over the mail contract to the Bengal Burmah Steam Navigation Company, which is an Indian Company?

The Honourable Sir Joseph Bhoré: (a) The Government of India have received a representation from the Bengal Burmah Steam Navigation Company alleging that the British India Steam Navigation Company have been waging a rate-war against them in the passenger carrying trade between Chittagong and Rangoon.

(b) The matter is at present receiving the attention of the Government of India. The Government of India understand that before the Bengal Burmah Steam Navigation Company began to operate, the British India Steam Navigation Company had already reduced the fare for deck passengers between Chittagong and Rangoon, and that thereafter the fare was further reduced to Rs. 6.

(c) It is not understood to which mail contract the Honourable Member is referring. It may, however, be stated that the present contract for the conveyance of mails by the British India Steam Navigation Company over various routes continues until 31st January, 1934, and that the next

contract will be entered into on the result of open competitive tenders. It is, therefore, not possible now to make any definite statement on the subject.

Mr. K. Ahmed: What do Government propose and when will they give effect to the Resolution which was passed at the Simla Session in the absence of the Honourable Member? Is the Honourable Member aware that this House unanimously passed the Resolution?

The Honourable Sir Joseph Bhoré: I am aware of that fact.

Mr. K. Ahmed: What do they propose to do with regard to that Resolution?

The Honourable Sir Joseph Bhoré: I think the Honourable Sir C. P. Ramaswami Aiyar made it clear that Government could not give effect to that Resolution.

Mr. K. Ahmed: Are Government aware that the same principle should apply as it was fixed at the intervention of Lord Irwin with regard to the Scindia Steam Navigation Company and the British India Steam Navigation Company, Limited, that from Calcutta to Rangoon they will fix the same fare in respect of freight for cargo carried from Calcutta to Rangoon and vice versa?

The Honourable Sir Joseph Bhoré: I am not aware to what my Honourable friend is referring.

Dr. Ziauddin Ahmad: Will Government consider whether the contract should be renewed in the case of the British India Steam Navigation Company if the company did not agree to the advice given by the Government about the settlement of differences between the two companies?

The Honourable Sir Joseph Bhoré: The matter of deciding on mail contracts does not fall within my Department, but I shall bring it to the notice of my Honourable colleague who is unfortunately not able to be in his place here today on account of illness.

Mr. S. G. Jog: May I know the probable time by which these tenders will be asked for before the extension of the new contracts?

The Honourable Sir Joseph Bhoré: I am afraid I cannot give my Honourable friend any information on this point, because it does not relate to a matter with which my Department is concerned but I will try to obtain the information for him.

PRICE OF PETROL IN INDIA, RANGOON AND LONDON.

988. ***Dr. Ziauddin Ahmad:** (a) Are Government aware that all petrol, though bought from various sources, is sold at the same price in each district of India?

(b) Are Government aware that all the companies have combined together against the consumers?

(c) What is the price of petrol in Rangoon and in London?

Dr. Ziauddin Ahmad: Is it not a fact that all the Companies have combined against consumers and now the Bolsheviks of Russia have come in to break this combine, when American Standard Company failed?

The Honourable Sir Joseph Bhoré: It may possibly be so.

Mr. Lalchand Navarai: In regard to the answer to part (b) of the question, may I know if it is very difficult for the Government to find out whether there is a combination and, if there is one, to provide against it?

The Honourable Sir Joseph Bhoré: I think I have already informed my Honourable friend that the matter is being investigated.

Mr. Lalchand Navarai: Exactly: what I mean is, is it such a difficult question that it should take so much time, and that we should be suffering in the meantime?

The Honourable Sir Joseph Bhoré: My Honourable friend must realise that these inquiries cannot be made in the course of a few days or even a few weeks.

Mr. Lalchand Navarai: Would it require years to find out whether there is a combination or not? I would like to have an answer as to how much more time it will take.

The Honourable Sir Joseph Bhoré: I cannot possibly tell my Honourable friend.

Mr. Lalchand Navarai: May I take it that Government will take an indefinite time over this inquiry?

The Honourable Sir Joseph Bhoré: There will be an inquiry carried out and the results will, if necessary, be communicated to any Member of this House who puts a question on that point.

Mr. Lalchand Navarai: May I know why it should take such a long time?

The Honourable Sir Joseph Bhoré: I am not prepared to give any more information on that point.

Mr. Lalchand Navarai: Then I take it that there is no desire on the part of Government to give a direct reply?

The Honourable Sir Joseph Bhoré: My Honourable friend's assumption is entirely incorrect.

RETRENCHMENT IN THE RAILWAY DEPARTMENT.

989. ***Dr. Ziauddin Ahmad:** (a) What are the principles on which retrenchment is being carried on in the Railway Department?

(b) Are Government prepared to issue orders to Agents and Divisional Superintendents that persons who have retired from Company and State Railways and who are now serving in State Railways, should be compelled to retire?

(c) Are Government prepared to consider the advisability of forcing persons, who have completed 25 years' service, to retire?

Mr. P. R. Rau: (a) I would refer the Honourable Member to paragraph 17 of the Government of India's Communiqué, dated the 6th June, 1932, a copy of which is in the Library.

(b) State-managed Railway Administrations have been advised that no extension of service after the age of 55 should ordinarily be granted to railway employees in units in which there is a surplus or where there is a waiting list.

(c) No. I would remind the Honourable Member that the Court of Enquiry definitely advised against following this course as a general rule.

Dr. Ziauddin Ahmad: Has the time come when retrenchment should now be stopped?

Mr. P. R. Rau: No, Sir.

Dr. Ziauddin Ahmad: Will the retrenchment continue?

Mr. P. R. Rau: I have not said that. I cannot give an undertaking on the part of the Railway Department that retrenchments will cease at the present moment. I explained in reply to a question yesterday what the position was with regard to the retrenchments in railways in general. So far as the information, available at present, goes I said that the total number of staff to be retrenched in the immediate future was not likely to exceed 8,000.

Dr. Ziauddin Ahmad: My question was, is this whole question not a question of the past and now the question would not arise in future?

(No answer was given.)

PROMOTION OF PERMANENT WAY INSPECTORS TO THE RANK OF ASSISTANT ENGINEERS.

990. ***Dr. Ziauddin Ahmad:** (a) Is it a fact that Permanent Way Inspectors are promoted to the rank of Assistant Engineers, even if they are not qualified?

(b) Do they have any knowledge, theoretical or practical, in construction work?

Mr. P. R. Rau: (a) and (b) Permanent Way Inspectors are promoted to the rank of Assistant Engineers only when they have the knowledge, theoretical and practical, considered requisite for the satisfactory execution of the duties they are called upon to perform.

MODERATION OF MR. HASSAN'S REPORT.

991. ***Dr. Ziauddin Ahmad:** (a) Is it not a fact that Mr. Hassan's original report was moderated by Mr. Chandwani at the suggestion of Mr. Hayman?

(b) Will Government be pleased to lay the original report in the Library?

Mr. P. R. Rau: (a) No.

(b) The report, as laid in the Library, is the original report submitted by Mr. Hassan to the Railway Board.

RAILWAY BOARD'S RECOMMENDATIONS ON MR. HASSAN'S REPORT.

992. *Dr. Ziauddin Ahmad: Is it not a fact that the recommendations for the Railway Board on Mr. Hassan's report were also prepared by Mr. Chandwani?

Mr. P. R. Rau: No.

MOSQUES UNDER THE CONTROL OF THE GOVERNMENT.

998. *Mr. M. Maswood Ahmad (on behalf of Shaikh Sadiq Hasan): Will Government be pleased to enumerate (a) the mosques which are in their possession, or (b) over which Government claim to exercise control?

Mr. G. S. Bajpai: (a) 150.

(b) 95.

JAMA MASJID, DELHI.

904. *Mr. M. Maswood Ahmad (on behalf of Shaikh Sadiq Hasan): (a) Will Government be pleased to state if it is a fact that the Jama Masjid, Delhi, was built by the Emperor Shah Jehan?

(b) Have Government got any claims over it? If so, under what agreement and with whom?

(c) Will Government be pleased to lay a copy of the agreement on the table?

(d) Do Government know that any interference with the full user of Jama Masjid, Delhi, by Muslims according to *Shariat* will cause great resentment throughout the country?

The Honourable Mr. H. G. Haig: (a) Yes.

(b) and (c). A copy of the agreement was laid on the table on the 30th September, 1932.

(d) I would invite attention to the Press Communiqué issued by the Chief Commissioner, Delhi, on the subject on the 31st August, 1932.

CLASSIFICATION IN JAIL OF MAULANA ATAULLAH SHAH BOKHARI OF AMRITSAR.

995. *Mr. M. Maswood Ahmad (on behalf of Shaikh Sadiq Hasan): (a) Are Government aware that Maulana Ataullah Shah Bokhari of Amritsar is held in great respect by Muslims?

(b) Was he convicted by a Magistrate at Delhi for making two speeches and placed as a prisoner in B class?

(c) Are Government aware that such treatment of giving him B class has caused discontent?

(d) Are Government prepared to change his class from B to A?

The Honourable Mr. H. G. Haig: (a) The Government understand that he is an influential speaker.

(b) Yes.

(c) No.

(d) The Local Government see no reason to make such a change. The classification was made after due consideration.

RELEASE OF AHRAR PRISONERS CONVICTED IN CONNECTION WITH THE KASHMIR AGITATION.

996. *Mr. M. Maswood Ahmad (on behalf of Shaikh Sadiq Hasan): (a) Will Government be pleased to state how many Ahrar prisoners there are in jails in India in connection with the Kashmir agitation?

(b) Are Government aware that at present there is neither the disobedience movement nor the agitation against the Kashmir Durbar in British India?

(c) Do Government propose to release the Ahrar prisoners who were sent to jail in connection with the Kashmir agitation? If not, why not?

The Honourable Mr. H. G. Haig: (a) 56.

(b) So far as I am aware, the Honourable Member's view is correct.

(c) I would refer the Honourable Member to the reply given by me to part (b) of question No. 707 on the same subject.

IMPRISONMENT OF MR. AZIZ HINDI OF AMRITSAR.

997. *Mr. M. Maswood Ahmad (on behalf of Shaikh Sadiq Hasan): (a) Will Government be pleased to state on what grounds they have imprisoned Mr. Aziz Hindi of Amritsar without a trial?

(b) How long do Government intend to deprive him of his freedom?

(c) Will Government ever put him in trial before a Court of law?

The Honourable Mr. H. G. Haig: (a) I would refer the Honourable Member to the reply given by my predecessor in this House on the 27th January, 1931, to Mr. Gaya Prasad Singh's question, No. 43.

(b) As long as this is necessary in the public interest.

(c) There is no such intention.

ABSENCE OF LATRINES IN THIRD CLASS CARRIAGES ON THE SHAHDARA-SAHARANPUR LIGHT RAILWAY.

998. *Kunwar Haji Ismail Ali Khan (on behalf of Khan Bahadur Haji Wajihuddin): Is it a fact that the Shahdara-Saharanpur Light Railway does not provide latrines for the third class passengers? If so, why? Are Government prepared to invite the attention of the Shahdara-Saharanpur Light Railway Company to this want?

Mr. P. R. Rau: I would refer the Honourable Member to the reply I gave to Lala Hari Raj Swarup's question No. 698 on the 23rd September, 1932. I am bringing the Honourable Member's question to the notice of the Managing Agents of the Railway.

ABSENCE OF LATRINES IN THIRD CLASS CARRIAGES ON THE SHAHDARA-SAHARANPUR LIGHT RAILWAY.

999. *Kunwar Haji Ismail Ali Khan (on behalf of Khan Bahadur Haji Wajihuddin): What should the passengers of the third class travelling on the Shahdara-Saharanpur Light Railway do when they feel call of nature? Is it a fact that one such passenger who used the intermediate class latrine was charged excess-fare from Baraut to Baghpat Road railway station on the 8th September, 1932?

Mr. P. R. Rau: I am afraid, Government cannot undertake to offer advice on the matter raised in the first part of this question. As regards the second part, I have no information, but, ordinarily, passengers, found in a higher class of carriage than that for which they hold tickets, are liable to pay excess fares.

EXPIRY OF THE CONTRACT OF THE SHAHDARA-SAHARANPUR LIGHT RAILWAY.

1000. ***Kunwar Haji Ismail Ali Khan** (on behalf of Khan Bahadur Haji Wajihuddin): (a) Is it a fact that the term of the original contract between the Shahdara-Saharanpur Light Railway Company and Government came to an end, and an extension has been given to the Company?

(b) When, why, and for how much time was it given?

(c) Do Government propose to take over the management of the Railway after the extended term comes to an end?

Mr. P. R. Rau: (a) The last occasion for termination was in 1927. The United Provinces Government did not then exercise their option.

(b) Under the terms of the contract, the next occasion on which the option can be exercised is on 18th April, 1934.

(c) The question is one for decision by the Government of the United Provinces.

Dr. Ziauddin Ahmad: In view of the fact that this Company takes very little care about the comforts of passengers, will not the Government convey to the Government of the United Provinces the wishes of the public that this contract should cease to exist?

Mr. P. R. Rau: I should say that the natural course would be to ask questions in the United Provinces Legislative Council.

INCONVENIENCE CAUSED TO PASSENGERS AT GARHMUKTESAR ON THE EAST INDIAN RAILWAY.

1001. ***Kunwar Haji Ismail Ali Khan** (on behalf of Khan Bahadur Haji Wajihuddin): (a) Is it a fact that on some minor stations of the East Indian Railway, e.g., Garhmuktesar, only one man is kept on duty after sunset?

(b) Are Government aware that considerable inconvenience is thereby caused to the passengers alighting from the trains, as the gates are closed and they are not allowed to go out till the train has left and the member of the staff concerned is relieved of the incidental engagements?

(c) Is it the duty of the Railway administration to allow the passengers alighting from the trains egress from the Railway station as soon as they desire to go out?

Mr. P. R. Rau: (a) Government have no details of the staff actually employed at each station.

(b) The scheduled stoppage of trains at minor stations does not normally exceed two or three minutes. I am, however, bringing the Honourable Member's question to the notice of the Agent, East Indian Railway, for such action as he may consider necessary.

(c) Yes.

DETENTION OF PASSENGERS AT GARHMUKTESAR, EAST INDIAN RAILWAY.

1002. ***Kunwar Haji Ismail Ali Khan** (on behalf of Khan Bahadur Haji Wajihuddin): (a) Is it a fact that on the 20th August, 1932, passengers arriving at Garhmuktesar Railway Station by the 4-M. D. train, Moradabad-Delhi Branch, were detained for about 20 minutes and were not allowed to go out till about a quarter of an hour after the departure of the train?

(b) Was Maulvi Muhammad Zharul Hasan, B.A., LL.B., Pleader, Ghaziabad, one of them?

(c) Has he served the Secretary of State for India in Council and the Agent, East Indian Railway, with notices claiming damages?

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

Mr. P. R. Rau: (a), (b) and (c). Government have no information.

(d) Government have called for a report from the East Indian Railway as to the facts and, when it is received, will consider whether any action on their part is called for.

DECLARATION OF A GRAVE AT GHAZIABAD AS A PROTECTED MONUMENT.

1003. ***Kunwar Haji Ismail Ali Khan** (on behalf of Khan Bahadur Haji Wajihuddin): (a) Is it a fact that there is an ancient grave lying near the Dak Bungalow at Ghaziabad which is believed to be that of the mother of Nawab Ghaziuddin Hyder, the founder of Ghaziabad?

(b) Are Government prepared to declare it protected under the Ancient Monuments Preservation Act, and effect necessary repairs thereto?

Mr. G. S. Bajpai: (a) and (b). Government have no information, but propose to have the grave inspected by officers of the Archaeological Department.

Kunwar Hajee Ismail Ali Khan: Will Government kindly make inquiries?

Mr. G. S. Bajpai: I have already stated that we shall ask officers of the Archaeological Department to inspect this grave.

GRANT OF DISABILITY PENSION TO JAMADAR AHMAD BAKHSH.

1004. ***Kunwar Haji Ismail Ali Khan** (on behalf of Khan Bahadur Haji Wajihuddin): With reference to my starred question put in the Legislative Assembly on the 5th March, 1931, and the answer given by the Army Secretary in his D. O. No. 42-G., dated the 11th April, 1931, that Jamadar Ahmad Bakhsh did not show any sign of ill-health while at Manzai, will Government be pleased to state how that reply can be reconciled with the following documents:

(i) Manzai Hospital No. 7/1548/8/5, dated 25th April, 1926, and No. 7/2589/11, dated 30th May, 1926 (Brief Clinical Notes) showing that Jamadar Ahmad Bakhsh was sick at Manzai; and

- (ii) the certificate of the Medical Board held on this officer in March 1927, to the effect that the disability was contracted on field service during the Great War and was permanent?

Mr. G. R. F. Tottenham: Inquiries have been made from the military authorities concerned, and a reply will be laid on the table in due course.

REMOVAL OF MR. JUGAL KISHORE KHANNA AND LALA DESH BANDHU GUPTA FROM THE MEMBERSHIP OF THE DELHI MUNICIPAL COMMITTEE.

1005. ***Mr. B. Das:** (a) Will Government be pleased to state if Mr. Jugal Kishore Khanna and Lala Desh Bandhu Gupta, members of the Delhi Municipality, have been removed by order of the Local Government under section 16 (1) (a) of the Punjab Municipal Act from the Committee on the ground of their having committed a breach of the oath of allegiance?

(b) Is it a fact that the said members in their reply to the charge of having committed a breach of the Municipal oath of allegiance refuted the charge?

(c) If so, will Government state if a breach of the oath of allegiance was proved in any competent Court?

(d) If the reply to part (c) be in the negative, will Government please state the grounds on which the charge was held by the Local Government to be justified?

Mr. G. S. Bajpai: (a) They were removed on account of having been convicted of an offence which implied, in the opinion of the Chief Commissioner, Delhi, a defect of character which unfitted them to be members of the Municipal Committee.

(b) The explanations submitted by them were considered unsatisfactory by the Chief Commissioner.

(c) This was not necessary.

(d) The Honourable Member's attention is drawn to the reply given to part (a) of this question.

Mr. B. Das: Is the Honourable Member aware that there are certain Members present on the floor of this House who have been similarly convicted by the Government, as for instance, my friend, Mr. S. C. Mitra ?

Mr. S. C. Mitra: I was never convicted of any offence, though detained in jail for several years.

Mr. Gaya Prasad Singh: May I know for what offence this gentleman was convicted?

Mr. G. S. Bajpai: This gentleman was convicted for forming part of an unlawful association.

Mr. B. Das: Under the Ordinance?

Mr. Gaya Prasad Singh: What was the unlawful association? The Indian National Congress?

Mr. G. S. Bajpai: No, not the Indian National Congress. The Honourable Member knows very well that the Indian National Congress as such has not been declared an unlawful association.

Mr. Gaya Prasad Singh: Then may I know what the Association was of which this gentleman formed a member?

Mr. G. S. Bajpai: If the Honourable Member would like detailed information, I shall be very glad to call for it and furnish it to him.

ABSENTEE MUNICIPAL COMMISSIONERS OF THE DELHI MUNICIPAL COMMITTEE.

1006. ***Mr. B. Das:** (a) Will Government please furnish the names of those Municipal Commissioners of the Delhi Municipal Committee who, during the last six years, have absented themselves from the Municipal Committee for more than three months?

(b) Was any action taken against them for such absence?

(c) If the reply to part (b) be in the negative, will Government state why no action was taken against them?

(d) Why has it been thought necessary to take action under section 16 (1) (a) of the Punjab Municipal Act against Messrs. Khanna and Gupta?

Mr. G. S. Bajpai: (a), (b) and (c). Government regret that they are unable to supply the information asked for by the Honourable Member as its collection would involve an expenditure of time and labour wholly incommensurate with the results.

(d) The reasons for the removal of Messrs. Khanna and Gupta have been given in the reply to part (a) of question No. 1005.

Mr. B. Das: Is the Honourable Member aware that this House happens to be the Local Council for the Delhi Province, and the Members of this House are entitled to have information about affairs in this province, though they may not be entitled to ask for information about other provinces?

Mr. G. S. Bajpai: I am sure, Sir, the House will appreciate the fact that I have never refused to furnish Honourable Members any information which it is in the power of the Government to supply.

Mr. B. Das: Did not the Honourable gentleman just now plead that on the ground of expenditure the information could not be collected?

Mr. G. S. Bajpai: Well, Sir, I have already said that Government will furnish information which it is possible for them to furnish consistently not only with the desire of the House to have certain information, but also consistently with their responsibility to the tax-payer.

Mr. S. C. Mitra: So far as part (b) is concerned, I think Government can easily find out the names of those gentlemen who, during the last six years, have absented themselves from the Municipal Committee for more than three months and, if any one of them was debarred from being a member of the Municipal Committee? It is a question of principle to see if this rule has been applied to anybody else in the past.

Mr. G. S. Bajpai: My point is, that in order to get that information, the Local Administration will have to go through their records which are in the municipal offices, and it does not seem necessary to collect the information.

Mr. B. Das: May I ask the Honourable Member whether, if the Local Administration had a Local Council, they would not have had to supply this information?

Mr. G. S. Bajpai: That, Sir, is a hypothetical question; if there is a Local Administration and a Local Council, they can settle the matter between themselves.

Mr. Gaya Prasad Singh: Is the Honourable Member a better representative of the tax-payers of this country than the elected Members of this House?

Mr. G. S. Bajpai: Far be it for me to contend that the Honourable Members opposite are less representative as regards their responsibility to the tax-payer.

Mr. S. C. Mitra: Is not the Honourable Member assuming too much when he says that to supply the information asked for would involve an expenditure of time and labour incommensurate with the results? We want to know why any member who has been absent for more than three months should be debarred from functioning again as a member of the Municipal Committee? That is a question of principle which should not be applicable to absentee politicians alone.

Mr. G. S. Bajpai: I have given the information which has been supplied to me by the Local Administration and I presume the Local Administration are in a position to judge what amount of work would be required for collecting certain information.

Mr. Gaya Prasad Singh: Is it because it will not redound to the credit of the Chief Commissioner that the Government refuse to supply the information?

Mr. G. S. Bajpai: No, not a bit of it, Sir; because, as a matter of fact, the Honourable the Chief Commissioner has informed us, and I have also informed the House of that fact, that these two persons were removed from the membership of the Municipal Committee not because of prolonged absence from the Municipality, but under section 16 (1) of the Punjab Municipal Act.

REMOVAL OF OFFICIAL PRESIDENT OF THE DELHI MUNICIPAL COMMITTEE MOVED BY TWO MEMBERS OF THE NATIONALIST MUNICIPAL PARTY.

1007. ***Mr. B. Das:** Is it a fact that Lala Jugal Kishore Khanna and Lala Desh Bandhu Gupta, Municipal Commissioners of Delhi, were members of the Nationalist Municipal Party who moved for the removal of the official President when the present Chief Commissioner was the Deputy Commissioner?

Mr. G. S. Bajpai: Government have no information.

Mr. B. Das: Will the Honourable Member collect information on the matter?

Mr. G. S. Bajpai: If the Honourable Member wishes this point pursued, I am quite prepared to ask the Chief Commissioner to carry on inquiries.

Mr. B. Das: Was it not a part of the duty of the Chief Commissioner to supply the information, because he happens to be the President of the Municipality?

Mr. G. S. Bajpai: The Chief Commissioner, if I may submit it for the consideration of the House, is certainly expected to collect information with regard to official functions of individuals, but as regards the private associations of individuals, such as membership of a particular party, I am not sure whether it is part of his functions.

Mr. B. Das: Is the Honourable Member aware that similar questions are being asked in Provincial Councils, and whether under the Local Self-Government Act similar questions can be asked?

Mr. G. S. Bajpai: I am quite prepared to accept that from my Honourable friend. I have not personally made researches into the proceedings of Local Councils.

Mr. B. Das: Why does not the Honourable Member give information to this House which happens to be the Local Council for Delhi Province?

Mr. G. S. Bajpai: I confess that my Honourable friend seems to be unnecessarily irritated. He has asked for information whether certain members were members of a particular party. I have said I have no information on the point. I have volunteered to ascertain from the Local Administration the information. I cannot do anything more than that.

Mr. Gaya Prasad Singh: Why is the Honourable Member unnecessarily reticent about a matter which it is in the competence of the Honourable Members to ask on the floor of this House?

Mr. G. S. Bajpai: I can assure my Honourable friend that there is no reason to be reticent about the membership of a member or gentleman or of a particular party.

ALLEGED WRONGFUL DETENTION AND MALTREATMENT BY POLICE OF CERTAIN CONGRESS VOLUNTEERS IN DELHI.

1008. ***Mr. B. Das:** (a) Has the attention of Government been drawn to a statement published in the daily *Arjun* and other papers of Delhi in their issues of the 29th August, 1932, in which one Sher Singh complained that on the 28th August, 1932, he and eight others, suspected of being Congress volunteers, were kept in the Delhi City Kotwali from morning till late in the evening without food, mercilessly beaten and then released?

(b) Are Government aware that persons suspected of being Congress workers and volunteers are being invariably remanded to police custody and kept in *thanis* where they are beaten and tortured?

(c) Are Government aware that a special police station has been opened in the Delhi Fort (Lal Qila) for this purpose?

(d) If the answers to parts (a), (b) and (c) be in the affirmative, will Government please state the law under which suspected persons are thus kept without food, tortured and beaten?

The Honourable Mr. H. G. Haig: (a) Yes. The allegations made therein are baseless.

The facts are briefly that six boy Congress volunteers who started a "Flag Salutation" Ceremony, in furtherance of the civil disobedience movement, were told to disperse, but refused to do so. On refusal, they were taken into custody and could have been prosecuted, but were let off on account of their youth. The boys were not beaten by the Police, and were released in plenty of time to take their evening meal.

(b) No. On the contrary, the Chief Commissioner, Delhi, reports that such persons are almost always sent to the judicial lock-up. In a few instances only, where such men have been suspected of complicity in revolutionary crime, they have been detained in police custody for purposes of identification, etc.

(c) No. But some dangerous revolutionaries, whose cases are under investigation, have been detained in the Delhi Fort for greater safety.

(d) Does not arise.

Mr. B. Das: May I inquire whether humanitarian considerations do not permit Government officials to supply mid-day food to these boys for whom the Honourable Member expressed such kind feelings?

The Honourable Mr. H. G. Haig: How many times does the Honourable Member expect these boys to be fed?

Mr. B. Das: Were these boys supplied with mid-day food? They were released in the evening, and they had no food at mid-day?

The Honourable Mr. H. G. Haig: I understand that they were released in plenty of time to take their evening meal.

Mr. Gaya Prasad Singh: When were they released? Were they released in the evening?

The Honourable Mr. H. G. Haig: I cannot give details, but I have given the information in my possession.

Mr. Gaya Prasad Singh: Then what authority has the Honourable gentleman got to say that they were released in plenty of time to take their evening meal, when he does not know exactly when they were released?

The Honourable Mr. H. G. Haig: I give the information on the authority of the Chief Commissioner of Delhi.

Mr. B. Das: Does the Honourable Member agree that these people were kept in the Delhi City Kotwali from morning till late in the evening without food, and if they were released in time for their evening meal, what about their mid-day meal? Little boys want more food than probably the Honourable Member or I want!

The Honourable Mr. H. G. Haig: They may possibly have missed one of their meals, but I do not consider that a great hardship.

Sardar Sant Singh: May I know how the Government reconcile the answer to part (b) of this question by saying that these persons, when they are suspected of terrorist crime, are kept in *havalat* and not in judicial lock-up, and are kept there for the purpose of identification, etc.? What is the identification in such cases and what are the other implications, etc., for which they are kept there?

The Honourable Mr. H. G. Haig: I find it rather difficult to follow the Honourable Member's question. Does he want to know why the revolutionaries are sometimes kept in police custody for the purpose of identification. . . .

Sardar Sant Singh: May I explain my question once more? The answer given to part (b) of the question, as I understand it, is that boys suspected of revolutionary crimes are kept in *havalat* and not sent to the judicial lock-up for the purpose of identification, etc. What I want to know is this. The question of identification only arises when the boys' parentage or their addresses are not known. Now this was known to the police when they were arrested, and what other purposes are implied under the term "etc." for which they were detained in the *havalat*?

The Honourable Mr. H. G. Haig: The Honourable Member has, I think, misunderstood what I intended by identification. I did not mean for the purpose of discovering who they were, but, in the course of the police investigation, it is sometimes necessary to see whether certain people recognise these prisoners as having taken part in certain activities.

Mr. Gaya Prasad Singh: Or to extort confession from them!

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Next question, please.

ALLEGATIONS OF MALTREATMENT BY DHARAMPAL, A REVOLUTIONARY SUSPECT, WHILE IN POLICE CUSTODY IN DELHI.

1009. ***Mr. B. Das:** Is it a fact that very serious allegations were made (as per copy given below) by one Dharam Pal, a revolutionary suspect, accused, under the Indian Arms Act, in the Court of Mr. S. M. Rashid, Magistrate, I Class at Delhi, on the 5th of September, 1932, against the conduct of the police and the treatment meted out to him during the time he was kept in police custody in the Delhi City Kotwali and Delhi Fort Police Station?

"IN THE COURT OF S. M. RASHID, Esq., B.A., MAGISTRATE, I CLASS DELHI.

CROWN versus DHARAM PAL.

SIR,

The accused petitioner respectfully begs to state as under:

- (1) That the accused was arrested on 22nd July, 1932, and was remanded to police custody for 14 days.
- (2) That on 26th July, 1932, accused petitioner was confined in the Delhi Fort Police station where he was kept for about a week.
- (3) That for the first 5 days, i.e., on the 26th, 27th, 28th, 29th and 30th July, 1932, accused petitioner was made to stand hands up and given shoe-beating on hips under orders of Sardarji, the Sikh Sub-Inspector in-Charge of Police Station, Delhi Fort.
- (4) That the said Sub-Inspector and six constables—Sri Ram, Ghumani, Sarfaraz, Mulla and Mirza Manzur Ali by names—beat the petitioner by turn and made the petitioner sit with his legs asunder.

(5) That the petitioner was extremely tortured and made to wake up for two consecutive nights.

(6) That the accused petitioner, when produced last time in Court, orally complained about this to Ch. Baldeo Singh, Magistrate, who asked the petitioner to make a complaint in writing to the trying Court.

Petitioner therefore respectfully prays that an investigation into the conduct of the police be ordered and the officials concerned be dealt with according to law.

6th September, 1932.

(Sd.) DHARAM PAL.

Petitioner."

The Honourable Mr. H. G. Haig: Such allegations were made by the accused in question, but careful departmental enquiries have disclosed no reason to give them credence. The complaint, however, will be inquired into by the Magistrate before whom it was filed and who is trying the Arms Act Case against the accused.

Sardar Sant Singh: May I know if the person who made these allegations, Mr. Dharampal in this particular case, was present at the time the investigation was going on, or whether his statement was recorded by the department?

The Honourable Mr. H. G. Haig: I imagine that his statement was very fully considered in the departmental enquiry and it will be considered in still more detail and in his presence by the Magistrate.

TOTAL EMOLUMENTS AND THE NUMBER, ETC., OF SUPERIOR GRADE PUBLIC SERVANTS IN CERTAIN DEPARTMENTS IN DELHI.

1010. ***Mr. B. Das:** Will Government please furnish:

(a) the figures of the total expenditure in emoluments of public servants located at Delhi, in 1910; and

(b) the number and designation of superior grade public servants in the Executive, Judicial and Public Departments—employed for the administration of the Delhi District in the said year?

The Honourable Mr. H. G. Haig: (a) The information is not available and could not be procured without an amount of research that I should not feel justified in undertaking.

(b) A statement giving the information is laid on the table. It is assumed that in speaking of the Public Department the Honourable Member is referring to the Public Works Department.

List showing the number and designation of superior grade public servants of Executive, Judicial and Public Works Departments in the Delhi District in 1910.

Number.	Designation.
1	Deputy Commissioner.
1	District Judge.
3	Assistant Commissioners.
5	Extra Assistant Commissioners.
1	Judge, Small Causes Court.
1	Settlement Officer.
1	Extra Assistant Settlement Officer.
2	Executive Engineers.

AREA AND POPULATION OF THE PRESENT PROVINCE OF DELHI.

1011. ***Mr. B. Das:** (a) Is it a fact that the total area and population of the present Province of Delhi are considerably less than those of the Delhi District in 1910?

(b) Will Government state the number and designation of the superior grade public servants employed for the administration of the Executive, Police and Judicial Departments of the Delhi Province at present?

The Honourable Mr. H. G. Haig: (a) No, Sir. The area of the Delhi Province is no doubt less than that of the old Delhi district, but the population is very nearly the same.

(b) A statement giving the information is laid on the table.

List showing the number and designation of superior grade public servants of the Executive, Police and Judicial Departments in the Delhi Province in 1932.

No.	Designation.
1	Chief Commissioner.
1	Deputy Commissioner.
1	Land and Development Officer.
1	Additional District Magistrate.
1	Resident Magistrate, New Delhi.
4	Extra Assistant Commissioners.
1	District and Sessions Judge.
6	Subordinate Judges.
3	One President and two members of the Tribunal.
1	Judge, Court of Small Causes.
1	Registrar, Court of Small Causes.
2	Superintendent and Additional Superintendent of Police.
1	Assistant Superintendent of Police.
1	Special Officer (Police.)
2	Deputy Superintendents of Police.
1	Deputy Superintendent of Police (Temporary for six months.)
1	Temporary Officer for Criminal Investigation Department.

REVENUE AND EXPENDITURE OF THE DELHI PROVINCE.

1012. *Mr. B. Das: (a) Is it a fact that the revenues of the Delhi Province usually fall short of the expenses of the administration?

(b) If so, how much have Government contributed to the expenditure on the administration of the Delhi Province since 1912?

The Honourable Mr. H. G. Haig: (a) Yes.

(b) The Honourable Member will find the necessary information since 1918-14 in the *pro forma* account for Delhi appended to the Explanatory Memorandum by the Financial Secretary on the Budgets beginning from the year 1915-16. The Explanatory Memorandum referred to is included in the annual Financial Statement, Volume I, up to the year 1920-21, and, after that, in the annual Budget Volume. Both these documents are in the Library of this House. No figures for 1912-13 are available.

Dr. Ziauddin Ahmad: Do these figures include the expenditure on New Delhi also?

The Honourable Mr. H. G. Haig: I am afraid I must ask for notice of that question.

ABOLITION OF THE POST OF CHIEF COMMISSIONER, DELHI PROVINCE.

1013. *Mr. B. Das: Will Government please give reasons for not accepting the General Purposes Committee's recommendation that the post of the Chief Commissioner of the Delhi Province should be abolished, and that the administration placed under the direct supervision of the Home Department of the Government of India?

The Honourable Mr. H. G. Haig: The reasons are fully stated at page 85 of the Summary of the Results of Retrenchment Operations in Civil Expenditure and in Military Estimates, copies of which were circulated to Members of the Legislative Assembly in March, 1932.

Mr. B. Das: Does not national economy demand that Government should adopt some cheaper system of administration for a small area like Delhi than the present one?

The Honourable Mr. H. G. Haig: It is difficult, in view of the present constitutional arrangements, to simplify the administration of the Delhi Province.

Mr. B. Das: Is not the whole of the Delhi Province smaller than a district in the United Provinces from which my Honourable friend comes?

The Honourable Mr. H. G. Haig: That is perfectly true, but it is not only the headquarters of the Government of India, but the place in which Honourable Members of this House assemble for a large portion of the cold weather. (Laughter.)

†1014. *

†This question has already been answered; see p. 1485 of L. A. Debates, dated 28th September, 1932.

NEGOTIATIONS REGARDING THE PURCHASE OF THE BENGAL AND NORTH WESTERN RAILWAY.

1015. *Pandit Ram Krishna Jha: (a) Will Government be pleased to state whether the negotiation that was carried on between the Government of India and the Bengal and North Western Railway authorities, regarding the purchase of the Bengal and North Western Railway, including Tirhut Railways, has come to an end?

(b) If so, what is the result of the negotiations?

(c) Will Government be pleased to lay on the table the entire correspondence that passed between the Government of India and the Railway authorities on the subject?

(d) Will Government be pleased to state what steps they have finally decided to take in the matter of the purchase of the said Railways?

Mr. P. R. Rau: (a) Yes.

(b) and (d). I would refer the Honourable Member to the Railway Department Notification No. 6870-F., dated 16th May, 1932, published at pages 645 to 651 of Part I of the Gazette of India, dated the 21st May, 1932.

(c) There has been no correspondence on the subject between the Government of India and the Railway authorities. The Gazette Notification, to which I have referred the Honourable Member, reproduces the correspondence that has passed between the Secretary of State and the Railway Companies.

Mr. Gaya Prasad Singh: Will the Honourable Member kindly give the main features of the new contract, which is under preparation, with the Bengal and North Western Railway?

Mr. P. R. Rau: They are contained in this correspondence to which I have just attracted the attention of the Honourable Member.

Dr. Ziauddin Ahmad: Are the conditions substantially the same as in the previous contract?

Mr. P. R. Rau: I am afraid I do not carry all those conditions in my head.

Dr. Ziauddin Ahmad: I thought the Honourable Member should know whether there have been changes.

Mr. P. R. Rau: There have been certain changes following the recommendations of the Committee which was appointed by this House.

WANT OF PROPER ACCOMMODATION FOR GAZETTED OFFICERS IN SIMLA AND DELHI.

1016. *Mr. S. G. Jog: (a) Is it not a fact that many officers of gazetted rank and in higher service find it difficult to get Government quarters both at Simla as well as at Delhi?

(b) Will Government state how many officers are without Government quarters and how many of them are living in hotels as they could not secure quarters?

(c) Are Government aware that these higher officials are put to great inconvenience on account of this want of proper accommodation?

(d) If so, what steps do Government propose to take in the matter with a view to removing the inconvenience and discomfort to these officers?

Mr. T. Ryan: (a) At both Simla and Delhi a number of officers are unable to obtain Government quarters.

(b) Information on this point is not available.

(c) Government are aware that officers who desire to live in Government quarters but are unable to obtain them are put to inconvenience.

(d) In existing financial conditions, Government are not in a position to add substantially to the number of Government quarters available for officers at Simla and Delhi.

†1017.*

JURISDICTION OVER CART ROAD NEAR THE QUARTERS FOR ASSEMBLY MEMBERS IN SIMLA.

1018. ***Mr. S. G. Jog:** Will Government please state in whose jurisdiction is the portion of the Cart Road between the second mile and the orthodox quarters for the Assembly Members?

Mr. T. Ryan: The portion of the Cart Road in question is under the jurisdiction of the Government of the Punjab.

Mr. S. G. Jog: Will the Honourable Member bring to the notice of the Punjab Government the inconvenience caused?

Mr. T. Ryan: What inconvenience? That it was under their jurisdiction?

CONTEMPLATED APPOINTMENT OF AN OFFICER OF A COMPANY-MANAGED RAILWAY AS A DIRECTOR OF RAILWAY BOARD.

1019. ***Mr. Badri Lal Rastogi:** (a) Will Government be pleased to state if it is a fact that an officer of a Company-managed Railway in South India is being seriously considered for appointment as a Director of the Railway Board?

(b) If so, will Government be pleased to state if no suitable officer is obtainable from any of the State Railways?

(c) Is it also a fact that the said Company-officer was superseded on his own railway?

(d) Is it also a fact that his age is over 55?

Mr. P. R. Rau: (a) Yes.

(b) Appointments in the Railway Board's office are open to all officers of Railways, both State and Company-managed.

(c) No.

(d) No.

† This question was withdrawn by the questioner.

Mr. M. Maswood Ahmad: Will Government be pleased to state to which community this officer in question belongs?

Mr. P. R. Rau: If my presumption about the officer in question is correct, he is a European.

Mr. B. Das: May I enquire what is the exact age of this officer? It is stated to be 55.

Mr. P. R. Rau: It is under 55.

Mr. B. Das: Is it very close to 55?

Mr. P. R. Rau: I do not think so.

Mr. B. Das: Is not the age 55 only meant for Governors of Provinces and not applied to public servants under the retrenchment schemes? All officers above 55 should be retrenched—is not that the recommendation?

Mr. P. R. Rau: There is a general rule in railway service that an officer superannuates at the age of 55.

RESOLUTION RE TRADE AGREEMENT SIGNED AT OTTAWA.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Further consideration of the Ottawa Agreement and the Resolution and amendments thereon.

Mr. Arthur Moore (Bengal: European): Mr. President, I imagine there must be in this House some older Members who are feeling, as 12 Noon. I do myself, that never before has so great a responsibility for our vote been placed upon us. There have been in the past some very important issues left to the decision of this House, important tariff issues; but, on other occasions, as for instance, in the very critical divisions on the Emergency Finance Bill, a year ago, it was possible to feel that after all the ultimate responsibility did not rest with us, and I think there have been occasions in the past when Members opposite have felt that, owing to the existence of the possibility of certification, they were allowed a certain liberty and it was sometimes possible for them to do what political parties in all countries do, if they are annoyed with the Government on one question they decide to show their annoyance by hitting the Government a blow on some other question. It has been possible to make a gesture and to give a vote even against one's conscience, with the feeling that after all the business before the House would in the end be put through by the system of certification. Well, that is not possible today. We are made in this matter to feel ourselves a responsible House. We are told, as I understand it, that the decision rests absolutely with us. When the division bell rings tomorrow evening or the evening after or whenever it does ring, it will then be finally decided whether the Agreement made at Ottawa is to go through, or whether a great scheme which has been prepared with a view to the whole of the British Commonwealth of Nations sharing in it is to be, shall we say, crippled in the very important section of it that relates to India.

[Mr. Arthur Moore.]

Furthermore, we must remember that at Ottawa both by the British Delegation and by the Dominions Delegations it was clearly set forth that this was an attempt at a scheme of world recovery. It was not aimed at the nations, outside the Empire. It was hoped, on the contrary, that it would lead to further understandings and to the possibility of a greater volume of trade, and freer trade, throughout the whole world in order to enable it to recover from its present depression. That seems to me the issue that we have got to consider and I do not think it is a very simple one. Personally, when questions of tariffs are brought under my notice, any question of a tariff deal, whether it is a round deal table or a square deal table, I am inclined to look under the table as well as over it. I am inclined to look round the corner as well as straight in front of my nose. Tariffs are tricky things; and I would like to say that, in supporting the principle of the Agreement, we here would wish it to be understood that we entirely reserve our right of criticism in regard to the resulting tariff Bill. There are two ways of carrying out the undertaking to give a margin of preference. You can give your margin of preference by increasing your existing tariffs on other countries up to the required margin or you can give your tariffs by decreasing your existing tariff in relation to the countries with which you come to agreement. That is a question which, in each particular instance, will necessarily have to be examined on its merits.

But I would like to ask the House to follow with me some of the processes of thought which lead me to feel that this Resolution ought to be supported. First of all, right in the centre of the landscape is the colossal fact that Great Britain and, with her, the whole of what is called the Colonial Empire, that is to say the Empire apart from the Dominions and India, all that portion of the Empire which has not enjoyed fiscal autonomy, that that tremendous market is ceasing to be a free trade market, and that Great Britain has abandoned her traditional policy of free imports. Now, that is a definite and decisive fact. I have heard it said yesterday and I have seen it stated in public comments in this country on the Ottawa Agreement that a pistol has been pointed at us or that there is some threat. That is a profound misunderstanding. Great Britain has changed her policy for the best of all reasons. One might say that she had changed her policy, because she has been converted by the example of her own Dominions and of India who, enjoying fiscal autonomy, have refused to follow in Great Britain's footsteps and to adopt a policy of free trade. But I do not think that would be a correct assumption, and, to me, it seems perfectly clear that Great Britain has done what she has done for the simple reason that she has had to do so. The debt situation created after the war and the refusal of two great creditor countries, France and America, to accept, in the case of France, reparations from Germany, and, in the case of America, her war debt from Europe in the form of goods and services, and their insistence on having it in metal, has created chaos; and unless a way out is found, the world must inevitably crash. It has created a situation in which all countries are compelled, against their will, to follow the example of America, and, in order to keep solvent, they have to diminish the margin of imports over exports, and

that at a time when in every country the total volume of trade—imports and exports together—is shrinking! Countries are forced by that debt position even with the shrinking volume of trade to try and curtail imports, in order to secure a surplus balance of trade. More than that, the social services at home in education and in other directions are such that, at the present moment, without a general tariff for revenue, it is absolutely impossible to carry on; and we have the decisive facts that when the Labour Government was in power, the Economic Council which they appointed reported in favour of a tariff and that the very members of the Labour Government who refused to remain with Mr. Macdonald and are now in opposition, those same members in a memorandum, written when they were in the Cabinet, said that a tariff was necessary as the only means of balancing the budget. Therefore, I am absolutely convinced that even if we could conceive of such a thing as the return of what may be called the orthodox remnant of the Liberal Party, and if Sir Herbert Samuel himself were to become Prime Minister, faced with the situation that exists, he also would be compelled to accept a tariff. Therefore, the Import Duties Act, which comes into force this day week, has to be taken as a settled fact. I have in front of me a pamphlet by Mr. Gadgil of the Gokhale Institute which is written largely in condemnation of the Ottawa Agreement, but it is also largely a condemnation of tariffs. But he finally says (*A Voice*: "Page 7") on page 56:

"It is hard to believe that the British Delegation would not have agreed to the grant of the *status quo* for a further period of six months for making such an inquiry, or that the British Cabinet will refuse such a request even now if put forward by the Assembly".

and I saw a similar idea expressed in a Resolution which appeared on the Order Paper. Well, that seems to me a pathetic misunderstanding of the position. The Import Duties Act was absolutely inevitable, and all countries were faced with a most serious situation. Furthermore, in so far as the Import Duties Act can be considered as a measure of retaliation and as something for which the high tariff party in Great Britain have been asking in order to protect their home industries, it is clear that it is in no sense a pistol pointed at any member of the British Empire,—at any Dominion or at the Indian Empire. In so far as it is a retaliatory measure, it is clear that it is chiefly aimed at the foreign manufacturer who is competing strongly in Great Britain's home market. I notice also that Mr. Gadgil suggests that there is a danger, if this Agreement is passed, that it will provoke retaliation against India on the part of other countries. That is an argument which I find it difficult to follow, because other countries have their tariffs against India and India has her tariffs against them. In so far as there is retaliation, it is already in full swing. What has happened, on the contrary, is that the prolonged refusal of the rest of the world to follow Great Britain's example of having an open door has in the end forced her to adopt a different policy. So we have got this fact, that this day week the greatest free market that the world has ever seen will be closed, turnstiles will be set up, and no one will pass through unless either he produces an Ottawa pass or unless he pays his way. Other countries have turned an entirely deaf ear to the appeal that they should follow the example of Great Britain. They said, "here is a great market. We shall keep our own tariffs, capture as much of that for ourselves as possible". Every country has followed this plan,

[Mr. Arthur Moore.]

and none of them for a moment thought of allowing their own home markets to remain unprotected. In the Dominions, there arose, then, this criticism. They said, "here is this tremendous market in Great Britain, and we are the members of the empire. Why should we not have a special position in this market?" And so the policy of tariffs with preferences was evolved. Whereas foreign countries hoped that England would remain a free trade country, the Dominions urged that England should adopt tariffs against foreigners in order to provide economic links which would draw the British Commonwealth together. And what do we find? We find that in all the Dominions this policy, which was realised at Ottawa, is regarded as a fine policy. There is a great deal of argument about detail, but from no part of the Empire and from no self-governing country has yet come a refusal, or the suggestion that it was not highly profitable and desirable to enter into this new system. The case of Ireland is the most striking of all Mr. De Valera.... (Mr. B. Das: "Hear, hear.") (Laughter.) Well, Sir, I may say that I have recently had the same privilege as Mr. Jimmy Thomas, the privilege of hearing from Mr. De Valera's own lips his views; and in any case there is no secret in the matter. Mr. De Valera is criticised in many quarters. But as regards Ottawa at least it cannot be said that he is that kind of a fool. He is quite clear in his mind that however much he wants an Irish Republic, he does want Ireland to be in the Ottawa system of preferences. And it is a very remarkable thing that not only did it never occur to him not to send his delegates to Ottawa, but in those taxes that he has imposed since the quarrel with England over the land annuities developed in order to attempt to save the financial situation, he has been very careful to give Great Britain and all the Members of the British Commonwealth a preference. There is only one opinion in the Free State amongst all parties that somehow or other, whatever may be the quarrel about the land annuities, they must come into the Ottawa scheme of preferences for the Empire.

Now, Sir, what would be our alternative? There is an alternative, and it might at first sight seem a reasonable one. We might say that it is extremely difficult to estimate gains and losses under this Agreement. Why should we not wait and see? If we wait and see, let us clearly understand it is not a case of postponing the operation of the Import Duties Act. Nothing can postpone the operation of the Import Duties Act, but it would be possible to wait and see and to carry on for a year or more. Let the duties be put in force against us and then we shall see at the end of that period what we are losing. The losses are not denied. I have read a good many criticisms

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order. The Honourable Member has already had 25 minutes. The Chair wishes him to conclude his remarks within five minutes.

Mr. Arthur Moore: Very well, Sir. I shall conclude immediately. The losses are not denied in any of these criticisms of the Agreement. There are suggestions that markets could be found elsewhere, but it is admitted that we should lose the benefits on 25 crores of tea and on eight or nine crores of tanning industry and on others. Well, I suggest that we are not in a position to do that. And the other argument that somehow

England is in difficulties and that England's difficulty is India's opportunity seems to me fundamentally incorrect. This is an attempt, first, at reconstruction in the countries of the British Commonwealth, where we are all suffering. Can anyone doubt the tremendous depression in India? Can anyone doubt that we are in a bad way? Beyond that, it is an attempt to relieve the whole world situation. We are all suffering together, and if we take the narrow view, if we suppose that somehow we have been "done", that our representatives whom we know and who are Members of this House, have somehow been fooled

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member is not addressing his Group; he is addressing the House.

Mr. Arthur Moore: I am addressing the Chair, Sir. If we take the narrow view, then I fear the inevitable result will be that in the coming times of difficulty we must be prepared to see our trade and commerce flowing through narrow and sandy channels, and not as a great river, full at all seasons and winding safely to the sea.

Mr. B. N. Miara (Orissa Division: Non-Muhammadan): Sir, yesterday you allowed us to discuss this issue on political, economic and other grounds. Sir, politics is a very vast subject and what appears to be very important in your opinion may not be so in the opinion of others and what may appear to be very important to a constituency or to a Member may not be so from the view point of another. In the present issue before us about the Ottawa Agreement, I have been always thinking the viewpoint of the Government. Sir, whenever India is concerned, e.g., for the Geneva Conference, for the League of Nations, she has been pointed out as one of the most prominent Members of the League and Indian delegates go there to sign as if they are really the representatives of India. What we find in practice, however, is that they are only the nominees of Government or favourites of Government and are not the favourites of the people or the representatives of the people of India. As was observed yesterday, probably the British Government dictates and the Indian Government dittoes it. That is how the representatives go forward from India to sign these agreements which are thrust on us. There are also other matters which have been discussed for the last so many years, such as the question of central responsibility. This question has not yet been settled and it has not been taken serious notice of. Other things, such as the formation of the new Orissa Province for which we, in Orissa, have been agitating for over 30 or 40 years, have not been taken notice of and settled promptly. When such important questions remain to be settled, this Ottawa Agreement has been thrust on the Assembly for consideration. No time is allowed for us to consider the full implications of this Ottawa Agreement. We do not know whether it is beneficial to India or whether it is beneficial to Great Britain. As is well known, India is purely an agricultural country and we have enormous quantities of raw materials, such as linseed, groundnut, cotton, jute, castor seed and so many other things which are exported from India to other countries. We not only export to England, but also to other countries. The quantity

[Mr. B. N. Misra.]

that is exported to Great Britain is much less than what we export to other countries like Japan, America and Germany. I find from a report that we export linseed to the value of 451 lakhs to all other countries, whereas we export to Great Britain linseed valued at 110 lakhs. The export of groundnut to all other countries is worth 1,718 lakhs, whereas to England only 108 lakhs. Mark the proportion, Sir. If we give Imperial Preference only to England, what will be the fate of all our exports to other countries? (Hear, hear.) This aspect of the question has not at all been considered in the Ottawa Agreement. The same is the case with castor seeds. To all other countries, the export is worth 289 lakhs whereas to the United Kingdom, it is worth only 59 lakhs.

You will see from the items that I have just quoted that we are trading not only with Great Britain, but with other countries as well. Great Britain wants now preference. Of course if there is anything advantageous to her, she always grasps at it and wants preference. If there is anything advantageous to India, we are not allowed to enjoy that advantage. After she gets the raw produce from India, Great Britain makes them into finished articles, and exports them to India. India gets no advantage in the bargain; probably India has to pay 10 or 15 times more for the manufactured goods from Great Britain. This aspect of the matter has not been considered at all in the Ottawa Agreement. India being mostly an agricultural country, we have now to consider seriously whether we should not manufacture finished products out of the raw produce that we have got so much in abundance. Why should we at all export these raw products to England and get them manufactured into finished products there? Why should we not finish these in our own country? Then it will be beneficial to us. In considering the Ottawa Agreement, that should be our main consideration, namely, whether India could not get more benefit by retaining all the raw produce here and manufacturing them into finished articles here. We have all along been fighting for the right to manage our own affairs in the way most advantageous to India. For over 100 years and more, England has been taking all the best of our country and we were getting the worst. We are probably paying in some case 30 or 40 times out of the same raw materials that are being sent by us. We are just now lifting our head and we are just now trying to become a manufacturing country. We have established a few mills in India, and, with the advent of the new constitution, if we are given power to manage our own affairs in the way most advantageous to us, then we can become a great manufacturing country. They are now sitting at the Third Round Table Conference hammering out a constitution for India. We must know what kind of constitution we are going to get. We must know what powers we are going to get under the new constitution, whether we will be given a chance to manage our own affairs.

The Honourable Sir Joseph Bhore should, in fairness, give us more time to study this Ottawa Agreement. He has been in the Government of India studying this problem for the past so many years, and we as laymen ought to be given more time to consult experts. This Ottawa Agreement has been placed in our hands only for the past fortnight and, in fairness, we ought to be given more time to consult business men and experts and see how this Agreement is going to affect India. It is not

right that the Government should, on the very day of the commencement of the Session, ask the House to pass a Resolution ratifying the Agreement without seriously considering its implications on the future well being of India. The Honourable Sir Joseph Bhore has very thoroughly considered this problem with the help of so many experts in the Government of India and I wish that, in fairness, he should allow us more time to consider this question. Of course with the vast power vested in Government, they can easily hoodwink any Member and win over any Member to the side of the Government and they will run to the Government lobby and will cast their vote for Government. But what will be the fate of the dumb voiceless millions, 30 crores of them. What will be their fate if this Ottawa Agreement is ratified by this Assembly? We must have enough time to consider whether the Agreement will be beneficial to the masses of India. As far as I have studied this problem, I have come to the conclusion that the ratification of this Ottawa Agreement will not be beneficial at all to India, but it will be beneficial to England. If the Honourable the Commerce Member, who is an Indian, is true to the salt that he eats at the expense of the poor Indian taxpayer, he will do only that which is beneficial to India and he will not think of the British Government or the Britisher. He is paid by the Indian taxpayer and I hope he will not think of injuring the source from which he is paid, and where he gets his bread from. I mean no personal reflection against my Honourable friend. It is very unfair on his part to have asked the House on the very commencement of the Session to ratify an Agreement which bristles with so many complicated matters. I will only say in conclusion that the concluding of such an Agreement and enacting legislation thereon at a critical period at this juncture when the horizon is cast with political turmoil and when the question of transferring of powers to Indians is looming large would not be proper and desirable. I would urge Government to postpone the consideration of this question till the new revised constitution comes into force and India obtains a chance of expressing its clear opinion under the National Government. I trust that Government will postpone the ratification of the Agreement in this Session of the Assembly with the support of the official and nominated block and prevent the strong suspicion that has already been created in the public mind in respect of the economic motives of the United Kingdom in dealing with India in a one-sided manner. The following analysis of the Indian Agreement recently disclosed by the President of the Board of Trade, in the House of Commons, evidently shows how Great Britain will benefit at the cost of Indian industries and trade:

"The value of the Indian Agreement would mean an enormous increase in the activities of our houses exporting to India with a corresponding effect on the manufacturing centres in the United Kingdom."

From the Indian point of view the gain of the United Kingdom will doubtless be the loss to the Indian industries and a further reduction of the purchasing power of the Indian masses. Sir, in this view of the case I shall appeal to all Honourable Members to remember that while proceeding to one or other of the lobbies, the entire blame will lie upon them if they hastily come to a decision without considering this matter thoroughly and clearly. I personally support the amendment of Dr. Ziauddin Ahmad that it must be referred to a Committee.

Mr. A. Das (Benares and Gorakhpur Divisions: Non-Muhammadsan Rural): Sir, there is no doubt that this question is of very great importance, and you, Sir, at the very beginning recognised that fact by allowing a certain latitude to the Members in the matter of the time limit. So far as this question is concerned, a decision on it will not be effective only for a particular period, but it will also bind the future constitution that will come to India, and it is from that point of view that I submit that it is of the utmost importance that this matter should be thought over in a cool and deliberate spirit and as far as possible mostly on economic grounds not tinged with political considerations. And after a decision has been arrived at, then only should votes be given. Any hasty step one way or the other would be likely to jeopardise the interests of India in the future. Now, Sir, there are certain preliminaries that have to be looked into in considering this question. We have to see that the relations of the United Kingdom with the Colonies are on a different footing from what they are with India. There is the United Kingdom and there are the Colonies, mostly self-governing Colonies, and they act and react on each other with equal rights of partners in the Empire. Unfortunately that is not the case with India. We are a dependent nation and we have to go according to the wishes of the British Government and, therefore, our difficulty is all the greater, because we have to examine this question from an independent point of view whether it will benefit this particular dependency or not. The Honourable the Commerce Member, in his opening speech, rightly divided his subject into three heads; firstly, why we entered into this Agreement; secondly, whether it will benefit India at all or not, and, thirdly, what is India going to lose. So far as the first point is concerned, there may be those reasons which the Commerce Member gave for entering into this Agreement, but, apart from that, the non-official Members on this side of the House cannot be blind to the fact that the members who attended the Conference at Ottawa were not representative members of this House. They were nominated by the British Government. They were elected Members of this House, but they were not sent by this House as their representatives to Ottawa. I do not cast any slur upon their merits or upon what they have done. My point is that they did not have sufficient opportunity to study both sides of the question. They were sent there on one month's notice. All the facts and figures placed before them, before entering into the Agreement, were supplied by the British Government or the India Office and they had not the time to consult the people interested in the trade and commerce of this country as to whether this Agreement would or would not be to their interest. And, in the absence of an impartial inquiry made by certain experts, in the absence of facilities to consult the various trading bodies in India in order to form an opinion, I submit, it is a point for consideration whether they may not have fallen into the error of being coerced to enter into this Agreement on behalf of the British Government. I, therefore, submit that so far as the two so-called representatives of this House are concerned, the value of their signatures is not much having regard to the fact that they did not have the time to study the question from all points of view.

Sir, I do not desire to tire the House by going into facts and figures for which I am not prepared and I have not got the ability either for it. The facts and figures which Sir Joseph Bhowe gave may be correct or they

may not be correct. But what I submit for the consideration of this House is this, that the real test by which this Agreement should be looked into, apart from every other consideration, is whether it is beneficial to India or not. If the unanimous voice of this country is that this Agreement for the present and for the future will be for the benefit of India, certainly we will go ahead and accept it. If, on the other hand, there is no unanimity on that point, there will be some doubt as to whether it will benefit us or not. Where there is some doubt as to whether the gain or loss would be greater, I submit a point is made out for the consideration of this question by an expert Committee which will go into it minutely and give its decisive answer; and it will then be for this House to consider whether it should or should not ratify that Agreement.

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions: Non-Muhammadsan Rural): Sir, may I ask you whether it is fair to the House that the whole of the Treasury Benches should not, at the moment, be represented by a single Honourable Member of the Executive Council?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Chair regrets it, but the Honourable the Commerce Member who is in charge has left for a few minutes with its permission.

Mr. A. Das: May I continue, Sir?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Please go on.

Mr. A. Das: It is a pity that the Commerce Member has left, but I do not claim any special merit for what I am going to say and one of the reasons for the emptiness of the Treasury Benches may be that they do not attach any importance to what we on this side of the House have to say on this Agreement. Be that as it may, we will have done our duty if we bring all the facts that we can for consideration of the Members of this House. I was submitting that the real test about this Agreement is whether it will or will not benefit India; and in order to give an answer to that test, one way or the other, we have got a set of opinions on one side and a set of opinions on the other, to which I will presently invite the attention of this House. My submission is that the set of opinions, as far as the benefit to India is concerned, is very very doubtful.

Now, as far as the benefit to England is concerned and to the other Colonies, there is no doubt: we are all agreed that this Agreement will at once benefit England also the Colonies. The question is whether it is beneficial to India or not. The first thing to take up in historical order is the opinion of Lord Curzon. Preference was rejected in 1904. Then there is the opinion of the Fiscal Commission on which you, Sir, sat. They also came to this conclusion in 1923, that it will not benefit India. Apart from these opinions, as far as Indian opinion is concerned, it consists of those who are in a position to speak. I will point out the opinion of Mr. Birla who said in September quite clearly that this would benefit England more and India less. After that we have received the opinions of the three Chambers of Commerce which cannot be set aside by a mere twist of the head. First of all, I would refer to the Bengal National Chamber of Commerce presided over by Mr. Nalini Ranjan Sarkar. He

[Mr. A. Das.]

has given certain points which are printed at pages 46 and 47 of the Report. If you will permit me, Sir, I will give them below:

- (1) The Agreement is restrictive in principle and practice.
- (2) India stands to gain little and to sacrifice much more.
- (3) The benefits to India are inconsiderable and problematic.
- (4) The benefit to Great Britain is much more definite and considerable.
- (5) It will affect adversely India's trade with other foreign countries, which form its largest group of customers.
- (6) It is likely to provoke retaliation by countries which are hit by preference to Great Britain or the other Empire countries.
- (7) For these reasons, it will only cause a redistribution of Indian trade and not increase the total volume of trade; in fact India's exports are likely to be reduced.
- (8) It will either reduce the margin of protection required for Indian industries, retarding the industrial development of the country, or else
- (9) It will impose an additional burden on Indian consumers by raising the prices of important articles for the benefit of British industries.
- (10) It will render our fiscal system inflexible, virtually destroying our fiscal freedom.
- (11) It will render it difficult, if not impossible, for India to negotiate mutually advantageous trade agreements or preferences with other countries.
- (12) It will make the Central Budget more difficult to adjust and result in more taxation.
- (13) It will isolate India economically, which is economically and culturally unsound. This is detrimental to our economic development and fraught with danger to our future economic stability.
- (14) It will greatly increase India's economic dependence upon Great Britain and confirm her political subjection to that country.
- (15) It is likely to be used as a sop or threat in political concessions. It should be noted that in neither case is there any great economic loss involved. Our exports to the United Kingdom are not likely to be restricted as she cannot well do without most of them—moreover 'being instrumental in sending large quantities of imports to us she would be compelled to take adequate quantities of our exports'."

This is what Mr. Nalini Ranjan Sarkar has said on the Ottawa Agreement and each one of those points should be looked into and replied.

I shall now take up the opinion of Mr. C. N. Vakil and Mr. M. C. Munshi who are Professors of Economics in Bombay and this is their conclusion arrived at not before the receipt of the Agreement, but after its receipt and consideration. They say:

"The conclusion is obvious that the report of the Indian Delegation and the Agreement go far beyond the scope of Trade Agreements, that they introduce novel features into the Fiscal Policy of this country, which were never contemplated, that they commit India to the principle of protection with discrimination in favour of British goods, that thereby they accept the position of a stunted industrial growth in India as illustrated by the Supplementary Steel Agreement based on the theory of Industrial co-operation. These are far-reaching consequences which cannot be lightly accepted even though they are coupled with the clause, that it is possible to terminate the Agreement by a six months' notice, because the power to denounce the Agreement at six months' notice cannot appeal to those who believe that it is economically unsound."

On that point Mr. Raju yesterday made it quite clear that this six months' notice is of no use; because we have to remove it by a Bill and we all know how difficult it is to get an Act passed to amend another Act. So, this is Bengal and Bombay opinion. If we read through the

conclusions arrived at by the Indian Merchants Chamber and Bureau of Bombay, we find that they have also said:

"In conclusion, my Committee would like to emphasise that the Agreement should be judged as a whole in its manifold consequences on the economic life and financial system of the country, because these are interconnected. The emphasis of the Delegation on only one single aspect, viz., the threatened loss of India's trade in the British market, gives an entirely wrong and warped perspective to the Agreement, and this must be deprecated as but a piece of propaganda in favour of British industry under the guise of the so-called protection of the interests of the Indian farmer. For, the Agreement does not at all protect his interests; it is calculated only to divert the trade of India from other countries to the United Kingdom. In fact, the probable loss to him in the reduced demand for Indian raw materials from other countries will be greater than the threatened loss to him in the British market in case of non-acceptance of the Agreement. Judging the Agreement as a whole, my Committee have no hesitation in pronouncing their conviction that it is not in the interest of the Indian farmer, not in the interest of the Indian businessman, not in the interest of the Indian manufacturer, nor in the interest of the general taxpayer. It is only in the interest of the British manufacturer, the British exporter and the British shipper. Truly, has the President of the Board of Trade in His Majesty's Government declared in the House of Commons that it will mean 'an enormous increase in the activities of our houses exporting to India with a corresponding effect on manufacturing centres in the United Kingdom.'"

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member will please conclude in five minutes.

Mr. A. Das: I will, Sir. Lastly there is the conclusion in the report of Mr. Gadgil of the Gokhale Institute of Politics and Economics. He says:

"We conclude, therefore, by emphatically stating that our bargaining position has not been properly used at Ottawa; that we have been committed to a general preferential policy which is entirely against the interests of India and that the whole agreement has been conceived and brought forth in a hurry for which there is not the least justification."

My point is, that in the face of all these opinions on the one side, what is the balance of evidence or opinion on the other? There is the assurance of the Honourable the Commerce Member and there is the assurance of the two members who went there, Mr. Chetty and Mr. Haroon, who had not all the materials before them. I submit that the balance of evidence is clearly on the Indian side; and, therefore, if any impartial person were to judge of this evidence together with that evidence, he will rightly come to this conclusion that the point has been made that this should be inquired into further; and, as my friend, Dr. Ziauddin Ahmad, has suggested, a Committee of experts and non-official Members should go into the question and decide within a month as to whether this Agreement should or should not be entered into. Lastly we cannot altogether ignore the political aspect of the question and I would conclude by quoting what you, Sir, have said in your minute of dissent in the Fiscal Commission. I feel no hesitation in saying that the considerations that applied then apply equally well at the present moment. This is what you said:

"To the Indian people their self-respect is of far more importance than any economic advantage which any Dominion may choose to confer by means of preferential treatment. We may confidently state that the people of India would much prefer the withdrawal of such preference as they will not care to be economically indebted to any Dominion, which will not treat them as equal members of the British Empire having equal rights of citizenship."

Mr. S. C. Sen (Bengal National Chamber of Commerce: Indian Commerce): Sir, I do not propose to enter into the controversial points as to whether the Ottawa Agreement will be beneficial to India or not. My objection is mainly to the great hurry,

[Mr. S. O. Sen.]

the inordinate hurry, which the Honourable the Commerce Member is showing to pass this Resolution and to proceed with the consequential Bill which he has threatened to introduce and of which notice has been given here. What is the hurry about this matter? He himself, I understand, admitted yesterday that there is no need for hurry, as the Import Duties Act in England, although it may come into operation on the 15th of this month, will not be operative against India by virtue of this Agreement. If that be so, why should not there be an examination, a critical examination, of the principles involved in this Bill, or in the Bill to be introduced, or in the Resolution, or in the Agreement itself? It is the usual practice, Sir, in this country, for tariff reforms to be examined by the Tariff Board, and, then, after considering all their recommendations, to pass those reforms into law. That is the universal practice, and that has also been stated by Sir Atul Chatterjee at the opening speech which he made at Ottawa. I may be permitted, Sir, to read a portion of his speech which appears at page 56 of the Report of the Imperial Economic Conference at Ottawa, which was submitted to the Members here. I read from paragraph 5:

"The policy adopted by India aims at securing an ordered and balanced development and the avoidance of some of the dangers and difficulties to which protection sometimes leads. The industries selected for protection are only those which are considered to possess natural advantages that would enable them in the long run to dispense with State assistance. In every case the protective duty is only fixed after a careful examination by the Tariff Board at a level which will be adequate for its purpose without imposing an unnecessary burden on the consumer."

This is the principle upon which we have been acting all these years. Why should there be a departure in this instance, and why should you rush through a Resolution and then proceed with a Bill embodying the merits of the Resolution and the Agreement which has been signed by these representatives at Ottawa? Our fiscal system is different to that of the other parts of the world. We want to encourage our home industries, and, for that purpose, we want to have tariffs which will enable those industries to survive the foreign competition and nothing more. But why should we now be called upon to put a tariff on things about which there is no fear of any competition, except the imaginary fear that something else would be done against us. Take the case of jute and lac. In these two articles India has got a monopoly. The Government think that if we do not enter into this Agreement, they will use other classes of materials which may compete with jute. Sir, I have been hearing this threat for the last fifty years. We heard, when jute was being sold at a very high price, when gunnies were being sold at a high price, that the United States of America, which were one of the largest buyers of Hessians, were thinking of introducing other classes of materials to replace jute. That was 50 years ago, but all these years they have been purchasing very largely jute and gunnies and Hessians from India. The same is the case with regard to lac. We have also been hearing that there are other cheaper materials which might be used, but up till now we have not seen any substitutes. Therefore, what is the danger that we need fear about, and why should we rush through this measure? I for one cannot understand. If we are to enter into this Agreement for the benefit of India, whether for her gain or to minimise the losses, I do not see why there should be such a great rush in the matter. Why should not the matter be examined? I understand that the Dominions and other Governments who were invited to Ottawa

had this question examined by experts long before the day of the meeting. Was that done in the case of India? Were the Indian Delegates given any opportunity to calmly consider the position, to think of what they were doing? They were rushed there. The sword of Damocles was hanging over their heads. The provisions of the Import Duties Act were flourished before them and they were told that unless they entered into this Agreement at once, the Act would come into force from the 15th of November. That was the fear which succeeded in getting our Delegation there to submit to the wishes of the British Delegation.

Now, although the Honourable the Commerce Member says that there is no chance of the Import Duties Act coming into operation on the 15th of November, my friend, Mr. Arthur Moore, whom I am very glad to see back here again, has also explained to us as to what would happen to India this day. Probably India will go down the bottom of the ocean if we do not accept this Resolution—I do not know. But, Sir, we have survived all these alarmist fears, all these alarming threats, and I think we will survive them in spite of all alarming threats. Under these circumstances, as the question has not been examined by an expert Committee, I do not see why the matter should not be referred to our expert Board, I mean the Tariff Board, who were always consulted before any tariff reform was effected, and why should not there be some delay in dealing with the threatened legislation?

Mr. G. Morgan (Bengal: European): Sir, in rising to support the Government Resolution, I would like to point out that even although there has not been very much time to study, what is called by other speakers, the details of this Agreement, I personally have found ample time to study them sufficiently to give my support for ratification. My friend, Mr. Arthur Moore, has said that the real test of what our views are on the details, will be known when the Tariff Bill is placed before the House. If it is referred to a Select Committee, so much the better, but, in any case, whatever happens, there is not one item in that Bill, when it comes before us, which will not be scrutinised and cut to pieces if we consider it necessary . . .

Diwan Bahadur T. Rangachariar (South Arcot *cum* Chingleput: Non-Muhammadan Rural): May I ask the Honourable Member one question before he proceeds further? Can we judge on the merits of this question without those tariff proposals? Can we really come to a right conclusion on this question without knowing what the tariff proposals are going to be? Suppose we reject the tariff proposals later on?

Mr. G. Morgan: I would say in reply, I do not consider that that affects the actual question of the ratification of the preference proposals. How that preference will be effected is what we have to decide when the amendment to the Tariff Act is brought before us. Whether we agree with that method or not is another question. I consider that, in the question of this preference, we are looking, not for an increase in the duties on non-British goods, but are looking for a reduction of duties on British goods. This is the only way which will bear out the arguments advanced at Ottawa that the inter-Empire consultation would be the beginning of arguments in favour of a reduction of tariffs generally, which, it is hoped, the World Economic Conference will ultimately decide upon.

[Mr. G. Morgan.]

And, as far as I understand, the British statesmen, the members of the Delegation from Britain, put that more or less in the front rank. We cannot tell what will be the position of each individual item until we see the actual duty which the Government of India propose; when that is before us we will decide as to whether that particular item should be on Schedules or not. As far as I can gather, the reason for the so-called "hurry" is that we will have duties of ten per cent. against us on the 15th November unless we ratify this Agreement. I do not take that as coercion; I do not take that as a bamboo at all. The United Kingdom has definitely changed its fiscal policy and we cannot get away from that position. If we are to gain any benefit from the position which has been created, there is no question to my mind but that we ought to ratify this Agreement.

I should now like to make a few remarks about the Delegation. Some Members have stated that the Delegation did not represent this House. But let that pass. From information, which I have, the Indian Delegation stood out amongst all the Delegations at Ottawa, and I have been informed by people who know, that the efficiency displayed and the information supplied, by our Delegation was ahead of any other Delegation at Ottawa. (Cheers.) That does away with any idea that the representatives were rushed to Ottawa, hit over the head with a bamboo and compelled to sign the Agreement. That, I do not think, was the case. Another point. I think you will all agree that India's Tariff Board is, and has been a great success in the working out of our protective duty policy, etc. That Board, I may tell you, has been looked upon as a great success and is being recommended by Great Britain and will be adopted by other Members of the Commonwealth. I think, that is a great feather in the cap of India. Anyhow we have advanced more than other Members.

In all these many pamphlets, that we have received, very interesting, but not conclusive,—in all those pamphlets and all those conclusions which have been come to by others, it seems to me that they have gone on the basis that the ten per cent. preference means a rise of ten per cent. in duties all round. I do not take it as that, and, if the Tariff Bill is made out on that basis, we shall have something to say. But I would like to go back to what I have said before, and that is that it is a world recovery that we want. It has been definitely stated that this Ottawa Conference is the thin end of the wedge, and that we will be able to go before the World Economic Conference with a nucleus of countries who are determined to break down tariffs as far as is possible. Other countries in Europe have already suggested that they might come into this Empire Agreement. We hope that the World Conference will be successful. The statements made by Sir George Schuster and Sir Henry Strakosch at Ottawa bear out what I have just stated regarding the Ottawa Agreements and the World Conference. Everyone is looking for the World Conference in its attempt to solve the present position. In connection with the Agreement, there is a supplementary agreement regarding iron and steel, and that I whole-heartedly support. I will not go into figures at this stage, but I have no doubt in my mind that that arrangement will be a great benefit to India. It will be a great benefit to the unfortunate position of pig iron, it will be a great benefit to the unfortunate position of coal, and it will be a great benefit to the more unfortunate position of our railways, and, I am sure, the Member in charge of the Railway Department will be only too glad to see some more

money coming in. But the main point is, as pointed out by my Honourable friend, Mr. Arthur Moore, that the United Kingdom's fiscal policy is entirely changed. It is no good harping back to 1904, or 1921, or any of those other dates. The fact is, the position is entirely changed now. Since 1929, we are faced with a different world and we have got to change our opinions. In connection with the Fiscal Commission Report, we had many discussions in Simla, and a great part—I do not say all, but a great part,—of the report of that Commission is now a back number.

I would urge Honourable Members of this House, apart altogether from all these pamphlets and conclusions that have been put forward—I would urge them for their own sakes to ratify this Agreement, and to hold back detailed criticism until we see what the Government of India propose to put before us in the shape of an Indian Tariff Amendment Bill.

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

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

Mr. N. N. Anklesaria (Bombay Northern Division: Non-Muhammadan Rural): Sir, I have listened very attentively to the speeches of my Honourable friends opposing the motion who have preceded me and I am constrained to say, especially as regards those gentlemen who have moved amendments, that they are talking of things which they have not at all understood. In the very first place, every speaker, who has opposed this motion, has been talking as if this Agreement was a part of a policy of Imperial Preference. Nothing can possibly be farther from the truth. The Agreement is part of a policy of reciprocal preference which has come into vogue now after England decided to leave off free trade. This misunderstanding of the whole position is responsible for many erroneous statements made on the other side of the House and, I believe, it has been induced by a reading of a certain propagandist pamphlet the arguments of which my Honourable friends on the other side seem to have adopted as their own. (Mr. B. Das: "You give us a little credit.") Even if this Agreement were regarded as part of a policy of Imperial Preference, the remarks addressed against it by the other side are not justified by the authorities which they say support them. My Honourable friend, Mr. Das, purported to base himself on the authority of the Fiscal Commission. I hope to show to the House that my Honourable friend has been misreading the Fiscal Commission's report and the minute of dissent which he cited as his authority. As I said, this Agreement is part of a policy of reciprocal preference. Our Delegates at the Ottawa Conference have not committed us to a policy of giving England or any other Member of the British Commonwealth anything which is not in return for something given by either England or the Member of the Commonwealth concerned. It is a policy of *quid pro quo*. It is not a policy of receiving on one side and giving on the other side and that will be abundantly clear from the report of our Delegates at the Ottawa Conference.

[Mr. N. N. Anklesaria.]

I would say a few words about the amendment moved by my Honourable friend, Mr. Das. He bases his arguments against the report not on any grounds which are relevant to the present discussion, but which are wholly irrelevant, as regards the question which we are discussing today. Mr. Das stated that till India gets an equality of status, India should not enter into any such Agreement as the present one, should not, as he said, accede to the principle of Imperial Preference and he cited, as his authority, the minute of dissent to which you, Sir, were the most prominent signatory. The minute of dissent, contained in paragraph 44 on page 166 of the Fiscal Commission's report, says:

"We will now summarise our conclusions in regard to the Imperial Preference. We are in favour of the principle of Imperial Preference on the distinct condition that India should in this matter be put on the same footing of freedom as is enjoyed by the Self-Governing Dominions."

If my Honourable friend had emphasised the words 'in this matter' I think the House would have understood his meaning, but, by failing to emphasize those words, he possibly created a misunderstanding in the House that it was a status of political equality that was meant by the dissenters in the Fiscal Commission's report as a condition precedent to India entering into Agreements. As I have read the words, it is abundantly clear that nothing of the sort was intended either by the dissenting minute or by the report of the Fiscal Commission itself. Then, Sir, I will also cite the Fiscal Commission as my authority in support of this Agreement. The Fiscal Commission, on page 119, paragraph 262, lays down three Conditions by which the desirability of a particular Agreement for Imperial Preference should be judged and they are, in the first place, that no preference should be granted to any article without the approval of the Indian Legislature. It is for the fulfilment of this condition, that the present Resolution is brought before the House. The Agreement is put before the House for its approval and thereby the first condition laid down by the Fiscal Commission is satisfied. Secondly, no preference given should in any way diminish the protection required by the Indian industries. Now, Sir, if my Honourable friends had read the report, they would have found that our Delegates have seen to it that no Agreement, they could have possibly entered into, would in any way infringe the condition laid down by the Fiscal Commission in this respect. None of the industries which we have protected in India in any way suffer any loss as regards the protection accorded to them. Thirdly, the condition is that the preference should not involve any appreciable economic loss to India after taking into account the economic gain which India derives from the preference granted to her by the United Kingdom. Now, as regards the fulfilment of this condition, opinions may differ, and it is most natural, because this Agreement is not given time for operation. Before the Agreement is accepted and acted upon, nobody is in a position to say what India would actually lose or what India would actually gain, and it would be for the Honourable Members who oppose the motion to show conclusively to the House, if they possibly can, how and to what extent India is going to lose under this Agreement. I say, it is impossible.

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): You are wrongly changing the burden of proof.

Mr. N. N. Anklesaria: You are a lawyer and you ought to know it.

Mr. Lalchand Navalrai: It is therefore that I tell you.

Mr. N. N. Anklesaria: Now, of my Honourable friends, one gentleman is a Professor of Mathematics, another knows nothing about trade and commerce and is not a Professor of Economics or Mathematics.

Mr. B. Das (Orissa Division: Non-Muhammadan): What about yourself?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order.

An Honourable Member: He is an expert.

Mr. N. N. Anklesaria: And the third gentleman is a Civil Engineer. (Laughter.) They have pitted themselves against the considered opinion of men like Sir P. Ginwala, Sir George Rainy, Mr. Shanmukham Chetty and Seth Haji Abdoola Haroon (*An Honourable Member*: "Hear, hear." "Three cheers!"), most of whom have made the subject their life-long study. (Ironical Cheers.) I challenge the other side to name one gentleman of the repute of Sir P. Ginwala as an expert on tariff questions outside

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions: Muhammadan Rural): Outside what?

Mr. B. Das: We accept the challenge.

Mr. N. N. Anklesaria: I think my Honourable friends who require an expert Committee to give us their opinion on this Agreement could not possibly have found a better expert Committee than our Delegation to the Ottawa Conference. (Hear, hear.) If they can, I challenge them to name some of the members of the proposed expert Committee. Names have indeed been proposed by the Mover of one of the amendments, and it is for the House to judge whether the names proposed in any way affect what I have already said on the present question. Now it has been said that our Delegation to the Ottawa Conference was not a representative Delegation, that it did not represent the people of India.

Sir Muhammad Yakub: Nobody said that they did not represent the people of India. It was said that they did not represent the Assembly.

Mr. N. N. Anklesaria: In the first place, it is not the Delegation on which we have to give our verdict: we have to give our verdict on the work of that Delegation (Hear, hear), whether that Delegation was composed of X, Y and Z or P, Q and R is absolutely no matter for the House to consider; and judging the Agreement on that basis, it is up to the other side to point out in what manner and to what extent that Agreement is injurious to the interests of India. I would ask the House not to regard it as an Agreement between England and India, an Agreement in which it is said one side occupies a preponderatingly influential

[Mr. N. N. Anklesaria.]

position. I would ask the House to regard the Agreement as an Agreement between India and any other foreign country in the world, and judge that Agreement by the ordinary test by which Agreements are judged, namely, the advantages which accrue to one side or the other on the basis of that Agreement. Now I am not going to pursue this topic in detail, because, as I said, nobody is in a position to dogmatize on the effect of the Agreement as regards gain or loss to one side or the other in the absence of reliable statistics collected after the Agreement has come into operation. An example of the fallacy into which one falls by relying on statistics is furnished by the very pamphlet on which my Honourable friends rely. I refer to the pamphlet by Mr. C. N. Vakil and Mr. M. C. Munshi. That pamphlet and the arguments contained in it purport to be based on the statistical tables given at the end of the pamphlet. Now it has been pointed out that these statistical tables are erroneous and highly misleading and the authors of the pamphlet themselves have admitted that their table I, and their table V, which are some of the most important tables, are erroneous and they propose to make alterations and amendments in a supplementary pamphlet.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member will have to conclude in five minutes more.

Mr. N. N. Anklesaria: Very well, Sir. Then the pamphlet contains table IV, and it is headed, "Articles of import into India under the Ottawa Agreement". Now, anybody who peruses that Agreement and the report of our Delegation will find that cotton and cotton goods are specially excluded. But what do we find in this pamphlet? The very first and the second items are "cotton piecegoods" and "cotton yarn" which amounts to £35 million of the imports, that is, nearly 50 per cent. of the whole of the imports from India into the United Kingdom. I say a pamphlet based on such fallacious statistical tables cannot possibly be cited as an authority in support of the disadvantages which, my Honourable friends say, would accrue to India if the Agreement is ratified.

Mr. Lalchand Navarai: Will the Honourable Member be pleased to let me know on what page they have admitted that these tables are wrong?

Mr. N. N. Anklesaria: You will find in the *Times of India*, dated the 29th October, at page 5, that Professor Vakil himself has admitted that. Sir, it is said, what is the hurry about ratifying this Agreement? The Honourable the Commerce Member has admitted that there is no crucial date now concerned. He said that 15th of November was no longer a crucial date. I admit, Sir, that the 15th November is no longer a crucial date, but the crucial date will be the date on which the division will take place in this House on the present motion. That would be the crucial date, because England will then know whether India is going to stand by the Agreement or not: and if England is convinced that India is not going to stand by the Agreement, then it would be stupid for India to expect that England would continue the preferences which India has been granted under the Import Duties Act. The result would be that the place which we at present occupy will be taken up by our actual or

potential competitors and that place, once occupied by our potential and actual competitors, will not be easily vacated by them and, as Sir P. P. Ginwala has pointed out, the effects to at least one of our key industries—I mean the pig-iron industry and to our agricultural industry—will be disastrous. I would just give you three instances. There is the case of linseed. It is a very important item of trade with England and if we refuse to ratify the Agreement, England will have to accede to the offers and proposals about the linseed trade made to her by Argentine. Secondly, Sir, as I said, there was the pig-iron industry. Then we have the industry of agriculture. As Sir P. P. Ginwala has said, the effect on our agriculturists and on our key industries will be disastrous and if my Honourable friends on the other side are prepared to contemplate such a prospect with equanimity, I say that equanimity will be the result not of reason and enlightenment but of prejudice and ignorance.

Mr. C. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): Sir, the Honourable gentleman who preceded me referred to the iron and steel industry and spoke of pig-iron as an industry. The iron and steel industry, which is represented by the Tata Iron and Steel Company in this country, came to this House for a good deal of protection which we very gladly granted, for we wanted to protect and increase the iron and steel industry, so that we may attain the same stage of perfection in regard to iron and steel industry as other industrial countries in the world have attained. But what has happened under the Ottawa Agreement? What has happened under the general Ottawa policy? A policy has been introduced much against our wish which is a policy of crippling the development of the iron and steel industry. Sir, as an old industrialist and as one who has contributed a good deal to the industrial regeneration of this country both practically and in the beautiful and immortal words which you have used as a member of the Industrial Commission, Sir, you have pointed out how Indian industries must be protected and how Indian industries should be developed—a contribution which will not be forgotten by this country and a contribution which will be remembered by future generations who, I am certain, will live up to the expectations that you have raised in your life-work as well as writings. And what is that expectation? It is that India must stand upon her own legs, industrially speaking. When the Tata Iron and Steel Company was given protection by us, we did not say and we did not want that it should be said: "Thus far shalt thou progress and no further". But, under the Ottawa Agreement, an arrangement is reached that thus far shall the Tata Iron and Steel Company progress and thus far shall our steel and industrial progress be reached, and no further. Time was, as every student of industrial life and history of this country is aware, when we were importers into England and other countries purely of raw material and when the industrial policy adopted in this country, as recorded by the historian, Hayman Wilson, was regulated for the advantage of England and not for the development of a manufacturing people in this country. I do not want to go into that troublous and sad history and how our industries went out of existence for the very simple reason that we had not the right of controlling the industrial policy. We were responsible, under the Constitution, to a Government which had the interests of their own people at heart. Authorities for this need not be quoted at present for the simple reason that they are familiar to almost every Member in this House. Today England, progressing with the times, is quite willing

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to adjust and alter her ancient policy. An age of industrialism is on us and in this industrialised and industrial era in this country a new policy and a new principle is enunciated under the Ottawa Agreement. You will find that policy in paragraphs 113 and 144 of the report that has been presented to us and that policy is embodied in these two cryptic words—"Industrial Co-operation".

Under the pretext of industrial co-operation we are told that the Tata Iron and Steel Company should export to England sheet bar and not produce galvanised sheet, so that a limitation is put upon our industrial ambition. Sir, their exact words are these: "While industrialisation must increase and expand in the less industrialised countries,"—a pious wish and a wish that is presently defeated.—"the more highly industrialised countries must adapt themselves to ever-changing conditions by means of increasing specialisation".

Why, I ask, should not the Tatas devote themselves as well to industrial specialisation? Why should not the Tatas produce galvanised sheet (A Voice: "More and more") *more and more* as the Honourable friend to my left Diwan Bahadur Rangachariar correctly adds. We must produce galvanised sheets in this country, but we are told we need not produce them. We will be supplied with galvanised sheets, just as we were told in another era that we could send raw materials and receive finished products. Now, in this industrial era, when we have not yet reached the highest perfection, they say, "You need not reach the *ne plus ultra* of industrial progress. We shall give India finished products, give us your semi-finished products". Sir, every industrial patriot in this country will say "We want to be industrially self-dependent. Economically speaking, we want to stand on our own legs". Under the Ottawa Agreement, we are denied that opportunity. Economically speaking, we want to stand on our own legs, because India is in the peculiar position of a country which resembles no other country within the British Empire. It resembles a country outside the British Empire, in the multitude of her thrifty people, in the vastness of her industrial wealth and economic resources and that country is the United States of America. We would rather follow a self-dependent economic policy, but our friend, Mr. Arthur Moore, comes forward and tells us that the industrial policy of England has altered. I agree that the industrial policy of England has altered and Mr. Morgan, who followed Mr. Arthur Moore, told us that the United Kingdom had definitely changed her fiscal policy. I agree that the United Kingdom has definitely *for the present* changed her fiscal policy, definitely so far as the present Government continues to be in power, but I refuse to be tied down to the chariot wheel of the Tory policy of "industrial co-operation" (Hear, hear) as they call it. Why, I ask, should we be victimised to a fiscal policy to which Great Britain is committed? This fiscal policy is certain to change later on, for even my Honourable friend, Mr. Arthur Moore, with his great knowledge of English political life, will not prophesy that this fiscal policy has come to stay and that the Tories will be permanently in power. In that case, England will be drifting into a kind of Tory Fascism and all talk of democracy and Mother of Parliaments will become something of a dream. That that Tory Fascism is not going to materialise is indicated by the fact that men like Lord Snowden, who made the present Government

what it is and who contributed to putting the present Government in power, men like Sir Herbert Samuel have resigned from the Cabinet on this Ottawa question.

When great Englishmen, who made the nationalist policy in England possible, resigned on the ground that the Ottawa policy was wrong, that the very foundation of that policy was false, surely it does not lie in the mouth of English friends in this country to come and tell us "Follow that industrial policy denounced by the best of our own countrymen" and I dare say it will be denounced in the fulness of time by all the English people themselves.

Mr. F. E. James (Madras: European): May I put one question to my Honourable friend? Is he aware of the fact that Sir Herbert Samuel, in addressing the House of Commons on the Ottawa Agreement, pointed out that if all the provisions of the Ottawa Agreement had been on the same basis as the terms relating to the Indian Agreement, most of his objections to the Agreement would have been removed.

Mr. C. S. Ranga Iyer: I would ask my Honourable friend another question, though this is hardly question time. (Laughter.) Sir Herbert Samuel wrote a letter of resignation which he communicated to his chief, Mr. Ramsay MacDonald. Has my Honourable friend read that letter of resignation? My Honourable friend nods his head indicating he has read that letter of resignation. In that letter, Sir Herbert Samuel very clearly states why he resigned. I shall read out for the information of the House the reason why some Cabinet Ministers resigned over the Ottawa issue: "The British Delegation went to Ottawa with the declared intention of increasing inter-imperial trade and securing a general lowering of world tariffs. We had their assurance that nothing would be agreed to which hampered our freedom to negotiate with foreign countries for the lowering of tariffs. They have come back after weeks of acrimonious disputes and sordid struggles with vested interests with Agreements wrenched from them to avert a collapse of the conference and exposure to the world of the hollowness of the talk of imperial sentiments in economic matters". (Hear, hear.) This is the view of Sir Herbert Samuel as expressed by Lord Snowden for all those who resigned from the Cabinet. Sir Herbert Samuel himself, in his letter of resignation, made it perfectly clear that he was not and will not be a party to the Ottawa policy. The Ottawa policy was directed against the present troubles coming out of world depression. In his speeches delivered outside Parliament Sir Herbert Samuel said that the Empire was an important part of the world and if the Empire countries came to an agreement and excluded the world from that agreement, it might be from the Tory point of view possible to increase the Empire prosperity up to a point, but to the same extent it would be affecting the rest of the world-customers with the Empire itself. You cannot cause a wave in the ocean without causing a hollow somewhere else, and every student of economics will be able to tell you. Sir, that if the rest of the world is excluded from an economic agreement, the capacity of that world for purchase is lowered, and the depression in that world is made deeper, and being a part and an important part of the world, nearly half the world, the economic depression in the world reacts upon the Empire itself and consequently the Empire will suffer. (Hear, hear.) But, Sir, in answering these interruptions, I am naturally taken away from my own argument which I would have liked to develop in the limited time

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before me. I am very willing, even at this stage, to attack them on their own grounds. The Honourable the Commerce Member also reminded us of Parliamentary statements, though he conveniently forgot to tell us what Lord Snowden wrote to the Prime Minister and why he and his colleagues including Sir Herbert Samuel resigned.

As for a particularly unfortunate statement of Sir Herbert Samuel, it is all well and good for him to refer to a particular aspect which is excluded from the Ottawa Agreement, because it is not so good for England and not so bad for India. To that extent I am willing to admit that the Ottawa Delegation had not played false to India for the simple reason that even my Honourable friend, Mr. Chetty, could not have gone against the interest which is dear to his heart, namely, the cotton interest. Sir Herbert Samuel had the interest of Lancashire at heart. It is too late in the day to think of suppressing our own industries. But, Sir, my quarrel with the Ottawa Delegation is about the choice of goods for preference. My quarrel with them is that they have bungled in their choice. For instance, on what matters have we been given preference? We have been given preference in regard to articles in which we needed no preference whatever. What is the object of preference? What is the object that the Tories have at heart? The object is to push on British trade. But, in matters like tea, in articles like jute where we need no pushing forward, we have pushed ourselves forward into the British market without any preference. In such matters, where we hold the field, we are told that we have been given so much preference. I can understand the talented Leader of the House—I mean the Commerce Member who will be the Leader soon—telling us with all humility of a self-effacing “novice”, —novice he is certainly not,—with all the humility of a layman which, again, he is certainly not, but I can explain why he tells us with all his warmth and with all the heat, “Do you dare to call it a bluff”: he is importing heat, because light is lacking. There was almost lightning when he told us, “Dare you call it a bluff”. I can well understand him waxing eloquent on that particular matter, because that is the weakest link in the preference chain. To give preference to tea and not exclusive preference either because we have a co-sharer in that preference and that co-sharer is our neighbour, Ceylon, to give such a half-hearted preference is no preference at all. And, then, he said, look at how Java is threatening to compete. Sir, the limitations of Java competition must be more fully explored by the Honourable the Commerce Member. I do not believe that Java is yet in a position to push herself into the British market and replace our tea even though the pistol of preference may be set against us. Then, I may also say one other thing, that the present Tory Government would not have dared to impose a preference against us in regard to tea, because they are not like my Honourable friend opposite “non-responsible” in the Parliamentary sense. They have got a constituency, they have got several constituencies. They have to go to their people and in every English home tea is consumed and an increased tea-tax there will be as odious as the salt-tax in India (Hear, hear); and if these Tories ventured to go to their constituencies with this additional tea-tax, they would be swept out into the lap of Mr. Snowden, Sir Herbert Samuel and the Labour Opposition. That being the case, I can understand my Honourable friend saying, have they not taxed or at any rate threatened to tax the Dominions, have they not said that they would do likewise with the Dominions? Why should they hesitate to do so even though their Imperial cousins in

India are tea planters? That is not my line of argument at all. They would not have taxed, I say, because they could not have gone out of office so soon, at any rate they would not have liked to go out of office so soon.

Sir, my friend, Mr. Moore, enlightened us about what he heard from the lips of Mr. De Valera himself. I should have been surprised, had Mr. Moore not taken the opportunity, as a great journalist that he is, to come into contact with the leader of the Irish Free State, and not only as a great journalist in this country, but also as an Irishman deeply devoted to both sides of Ireland because he lives on the border land. (Laughter.) Sir, I find my Honourable friend nodding in agreement because he is neither too much Ulster nor too much Free State. He is betwixt and between, an Irish border-man and naturally he is pleased with the idea that the south of Ireland is not, according to Mr. De Valera, to be deprived of the benefits which the north of Ireland is going to reap, namely, the benefit of the Ottawa policy. But Mr. Moore forgets that Mr. De Valera's Ireland is a free country; and we in the same position,—as you, Sir, pointed out in the memorable note you wrote on the Fiscal Commission report,—we in the same position would not have taken the intransigent attitude of Mr. De Valera on political grounds. Whatever objection we might have urged or whatever agreement we might have reached would be entirely on economic grounds, and even though not in the same position, I have been urging today no political arguments at all. I am quite willing, as I say, if you can convince me that your Agreement is going to do us good, to consider the matter and improve the trade. But no case has been made so far either by Mr. Moore or by the late Leader of the European Party, very much alive in this House (Laughter), Mr. Morgan.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member will please conclude in five minutes.

Mr. C. S. Ranga Iyer: Thank you very much, Sir, for your telling me that I have five minutes more and I will conclude within these five minutes.

Mr. Morgan referred to world recovery. He said, we want world recovery; and that is exactly what Mr. Snowden said. He objected to the Ottawa policy, because it was directed against world recovery. What we want is Indian recovery (Hear, hear), because India has 1/5th of the world's population. And how can you have Indian recovery if you do not look at the Indian question through the same spectacles through which the late Lord Curzon looked at the Indian question when he was entrusted with the responsibility for India? What Lord Curzon said in 1903 about the danger of “reprisals” from non-Imperial and non-English nations holds good today. For, before the war, England had a large percentage, 70 per cent. or more, of the Indian imports. Today the English imports into this country have shrunk to nearly 37 per cent. or so of the total imports. That being the case, may I ask in all humility, the same humility with which the Honourable the Commerce Member spoke,—blessed are the meek for they shall inherit the votes (Laughter)—may I ask, with the same humility, why we should not take a purely straight view of things and not visualise, the Commerce Member conveniently refused to visualise, what effect this will have on the foreign

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nations, our most important customers? Giving preference for goods like jute in which we have a monopoly, giving preference for tea which has captured the British market, we are asked to give preference to British goods to push out other goods, forgetting that this policy might act like a boomerang. Sir, I object to the Ottawa policy, because of the boomerang consequences that policy involves. (Applause.)

Mr. Jagan Nath Aggarwal (Jullundur Division: Non-Muhammadan): Sir, the Commerce Member took us into a few secrets of this Agreement, but I am afraid he did not let us into all the secrets of this pact. He went into some of the details of this Agreement and assured us that some part of the population of this country would be a gainer if this Agreement is accepted. He told us particularly about tea, about linseed and some other things in which India is likely to benefit by the English market being thrown open to India on preferential terms. I will presently examine the extent of this claim and the justification for it. But one part of it was safely omitted, and, I submit, with all respect, that that part was the real crucial determining factor in the light of which we must accept this Agreement or hold up our hands. I particularly invite the attention of the House to this aspect of the proposition which has been put before the House by these Benches. We are not asking the House at this stage to reject the Agreement. We are only asking the House to consider it and obtain the opinion of experts and to see whether this Agreement will in the end be good for India or not. After all, as the Honourable Member opposite was pleased to tell us, he approached this question as a layman. We are most of us laymen and, in a matter of this kind, in which such huge issues are involved, would it not be well to take the opinion of experts, so that the claim, which has been put forward from these Benches for a cool and dispassionate examination of this Agreement, may be tested and examined? The point to which I was coming was, if India is going to get a certain favour in the British market, we must give something for it. What is it that we are giving? We are giving to England the right to send her goods into this country with a preferential tariff. That is a question which requires a little examination. We all know, perhaps we know it too well, that the budgetary position of this country has been balanced or sought to be balanced with the help of a tariff—manipulation of the tariff. We are raising about 50 crores of rupees by taxation in that quarter. If that is so, how are we going to let English things in without altering our Tariff Act and upsetting our budget? Either we must raise taxation on goods from other countries or we must lower the taxes on English manufactured goods. Now both these processes are likely to mean money, to mean cost to the Indian consumer. If that is so, we might well have been told how India which aims at industrial independence, India which aims to be an industrial country, which aims to have her raw produce converted into finished articles in this country, how India is going to gain in this process. To be told that our tea will go into the British market and be welcomed there, is poor consolation for being told at the same time that for all generations to come, you will be only exporting raw produce and will be only sending your raw skins and hides and linseed and other things to England and other European countries and never be an industrial country. Up till this time the industrial development of this country has been postponed—has

been talked about, but never seriously taken in hand. Now, we are told that for all time to come we had better be content with the position we now occupy, that industrial development shall be under the conditions which England is going to introduce, that the most powerful industrial country will have a certain preference and we should live or die as best as we can under that tariff wall. I submit with all respect that that aspect of the case has not been at all adverted to.

I submit also that another part of the subject has not been looked into. We were told that we will have a favourable market in the United Kingdom. Grant, for the time being, that our hides and skins and linseed and other things will go into the British market, as they are free from tax there. We are not being appealed to on sentimental grounds. I do not think sentiment plays any part in the settlement of such matters. It is, after all, a business deal. Suppose your hides and skins are diverted from Antwerp and Hamburg and go into England. The Ottawa spirit is satisfied. You may say so much goods have gone into the British market more than they used to go there before. But what is the gain to us? The real point to consider there is whether it will develop our trade in a particular commodity or whether it only means that goods which we are sending to Antwerp and Hamburg will go to some other place. That would not amount to an improvement in our trade. Has anybody gone into the question at all? As has been pointed out by previous speakers, there are a good many commodities with regard to which we have a kind of monopoly or practically the supply of which is such that other countries cannot successfully compete with us. Take the case of tea itself. Java production of tea is not such a serious factor that it will put our tea out of the market. We may have more competition from Ceylon than we may have from Java; and, for the matter of that, in hides and skins even if the supply from certain quarters is taken in, we may be still remaining in the market. I claim that so far as these intricate questions are concerned, no attention has been given to that part of the subject, and I submit that it would have been just as well if the spirit underlying the amendments brought forward had been accepted by the other side. If I may say so, the real reason for the hurry with which his Agreement is sought to be rushed through, is that the 15th November was a crucial date and that the advantage that we were enjoying under the Import Duties Act would be likely to be lost if we did not pass this Bill. Now, with regard to this, it has been pointed out that the 15th November has ceased to be a crucial date. But I go further. As has been pointed out in the report of this Delegation, they somehow or other consider the whole case from the point of view of what India was going to lose if she did not adopt the Agreement, rather than from the point of view of what she would gain if she accepted it. My learned friend, Mr. Anklesaria, from that quarter, in a kind of legal argument, put it: "Have you shown what India is going to lose if this thing is passed?" There was an interjection from this quarter: "The onus is wrongly placed". But onus in the legal sense need not trouble us. My friend here was right when he said that the onus is wrongly placed; but let us look the thing in the face. You are asking us to upset the present arrangements; it is for you to make out a case that the new arrangements would be so very beneficial. Whoever heard of a person, who wants to upset the balance of things and upset the *status quo*, to require the other side to prove that it would not be harmful to you? That is what Mr. Anklesaria asks us to do. You prove that it will be beneficial

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to us; it is not up to us to prove that it will not be harmful. If you want me to do a thing, you have to prove that it will be beneficial to me. So that, the thing has been put the wrong way about and that is what I felt yesterday trying to approach the question with an absolutely open mind, that the real thing was "Hurry on; time is passing and we have considered that India is not going to lose by it". This is, in fact, what one of the paragraphs in the Report has said. If my Honourable and learned friend, Mr. Chetty, and his colleagues had a very accurate pair of balances, they would have been able to tell us what is on one side of that scale; nobody has taken the trouble to tell us what is there on the other. Therefore the real point that was in issue has not been looked at; and this modest attempt on the part of my friends to have the examination either by an expert Committee or by the Tariff Board reinforced with some experts has been unnecessarily opposed. Support was vouchsafed for this Resolution from another quarter—the Leader of the European Group. He passed in survey some of the conditions which led to the present change of policy on the part of England. My friend, Mr. Ranga Iyer, has in very happy terms examined some of the propositions put forward by Mr. Arthur Moore; but I try to look at it from a different point of view. One of the propositions which my learned friend put forward was that this is a momentous occasion in which our vote will count—not in the sense that the tellers count—but in the sense that our vote will be decisive. I am reminded in this connection of something which happened some years back; but I have no desire to go into the merits of it; but may I remind my learned friend opposite, what is the implication of this suggestion that our vote on this occasion will be more decisive than it is on other occasions—I think he was referring to the convention that when the Government of this country are in agreement with the Legislature, then any tariff or any fiscal measure will pass through and the Secretary of State will stay his hand. That, I think, is the idea underlying it. Does my friend forget that the very condition underlying the vote of the Assembly in a matter of this kind does not exist? The underlying idea was that the conditions which exist in Self-Governing Colonies or Dominions should be deemed to apply to India; and if that were so, my friend should be the first to have asked that the vote of Nominated Officials should not count in this division. (*Nationalist Cries of "Hear, hear"*.) That is the first thing if my friend wanted a sense of responsibility—responsibility to be taken by the elected elements of this House or the non-official element if I may say so—that it is by their vote that this Agreement is to be decided: then the Government of this country which comes to the House for a vote on this question should stay its hand and should not interfere with the vote.

Mr. Arthur Moore: On a point of explanation, may I say that I was not actually referring to the convention? I was merely referring to the undertaking given, as I understand it, that this question would be left to the House and that there was no question of certification.

Mr. Jagan Nath Aggarwal: I do not know whether that carries the case any further. In fact I was putting a much better interpretation upon what my friend said: I was going to give him credit for what he does not like to take. Anyway, I put it forward as a proposition which my friend might

well consider. If the Government came to this House for a vote as a responsible Government whom we could displace by an adverse vote, the position would be otherwise; but, as things stand, they should stay away and, in wishing to obtain the verdict of the House, they should not meddle with the voting. That is the least that we can ask them and if that is the kind of vote that they want to have, then they should produce the conditions for the recording of that vote.

Then we were told, that this is a part of the scheme of world rehabilitation which has been necessitated by post-war problems and by the peculiar situation of the United Kingdom. Now, Sir, let us examine this a little bit. We are told that the post-war problems, reparations and the need of balancing the budgets of several countries have led to an accumulation of gold in two particular countries, France and the United States, and the other countries who have got to make payments in gold cannot balance their budgets and have to restrict their imports, and various devices are adopted for that purpose. That is so, and that is one reason why in most countries various expedients are resorted to for stimulating trade. The other argument that was brought out by my learned friend was, that in the United Kingdom, it has been felt that we are losing ground in trade and it is difficult to balance the Budget and, therefore, England has gone back on her traditional policy of free trade. We are told that even the Ministers who resigned from the National Government and the Labour Government which appointed a Commission said that unless they imposed a tariff, there was no possibility of balancing the Budget. All these considerations do lead to the conclusion that an inquiry, an elaborate inquiry, is the least that can be demanded in the interests of India. Before this problem was presented to the Conference at Ottawa, the United Kingdom had been considering this question for several years; the need had been felt for imposing protective duties on more than one occasion, and the United Kingdom had been driven almost to the position that a tariff arrangement was necessary. The Colonies had been progressing towards that ideal for a long time. Can anybody say that we had a clear cut and well defined policy like the one which the Colonies and the United Kingdom had been adopting in this matter, and if we ask for a definite pronouncement from an expert Board after examination of the various data, after examination of the various interests, shall we be asking too much? May I point out, Sir, that the policy which is sought to be laid down here will bind future generations?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member will please conclude in five minutes.

Mr. Jagan Nath Aggarwal: I will try to do so, Sir. We were told: "Oh, this thing can be denounced by giving six months' notice on either side". That, Sir, is a very specious proposition, if I may say so. Once you get into this Agreement or pact, I can tell the House that it will be very difficult for us to get out, for the very simple reason that various interests would have grown up, your trade would have been diverted into a particular channel, and if you have lost custom somewhere, it would not be very easy to get it back by the simple expedient of denouncing your trade arrangement and by trying to bring about trade conditions which

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have ceased to exist. If that is so, this device of a six months' notice on either side, I submit, should not have any effect on the verdict of this House, because, if you are going to walk into this thing in a hurry, you will have to repent at leisure. Therefore, will it not be much wiser, much better, that before we enter into this Agreement or pact, we should have a clear enunciation of the policy of Government by an expert body. It is fortunate, Sir, that in the matter of protection which we have so far been able to lay down, we have an expert body, I mean the Tariff Board, and our scheme of discriminatory protection received a good deal of praise at Ottawa. India has already got a body of experts ready to advise Government whenever they are in difficulties,—and they are always in difficulties,—and, therefore, when we have this expert body, why is it that we are giving them a wide berth on this occasion in a very important matter like this? My learned friend opposite, Mr. Anklesaria, was telling in one of his arguments that we should look at this question quite independently of personalities. I am very happy that he adopted that frame of mind. After having told us that, he was out to lavish great praise on my friend, the Deputy President, then he was out to bestow praise on Mr. Ginwala, and again he was out to lavish praise on my friend, Seth Abdoola Haroon, and then he told us: "Do not care a fig as to who the Members of the Delegation were"; but these honest gentlemen, these great industrialists would not have given away your case. If that is the argument, then it shows that you preach one thing and do another. Anyway, all that I say is, that as suggested by the Movers of the various amendments, there must be an impartial and thorough inquiry before we are asked to accept this Agreement.

Dr. F. X. DeSouza (Nominated Non-Official): Sir, my only claim for intervening in this debate is the fact that I am interested in an industry which I consider will greatly benefit if this Ottawa Agreement is ratified. I venture to preface my remarks with the observation that we should divest our minds of all political bias and of all economic prejudices before we come to consider the implications of this Agreement. There are reasons, Sir, why political and economic bias exists against this Agreement. It is useless to disguise the fact, that in previous years the history of the British Government towards the trade and industries of this country has been one of complete subordination of Indian interests to British interests. That, Sir, is the manner in which I read history. If you read, for instance, the manner in which taxes and tariffs have been imposed, excise duties levied in previous years, the conclusion is irresistible, that the object of these duties and taxes, and the object of the whole tariff policy of the Government for many years past was the subordination of Indian interests to British interests.

Mr. B. V. Jadhav (Bombay Central Division: Non-Muhammedan Rural): Has that policy changed?

Dr. F. X. DeSouza: I will come to that presently. That, Sir, is the real reason of the political bias with which many thinkers and many writers in the press . . .

Diwan Bahadur T. Rangachariar: Is it political sense or political bias?

Dr. F. X. DeSouza: I say political bias, and I will tell you why. This kind of political bias is not unusual if you read history aright. We remember that in the 18th century, the greatest commercial rivals of England were the Dutch. The Dutch merchant was a very cunning individual, and in their dealings with English merchants generally, the Dutch had generally the best of it. This fact was so familiar and so much resented in England at the time that a well-known poet of the day crystallised the sentiments of the time in the following couplet:

"In matters commercial the fault of the Dutch
Is giving too little and asking for too much."

That, Sir, is the manner in which the Englishmen of the day regarded the Dutch merchant, who was his rival. So much so that in common parlance a Dutchman was almost synonymous with the word 'liar'. Things have changed very much since then. The Dutchmen and Englishmen have become the greatest friends, and you find that the greatest boast of the Dutchman today is that of all Continental nations, he resembles Englishmen the most. That is the position in regard to the changes that occur in political and commercial relations as circumstances change and the position readjusts itself, and so I must ask this House respectfully to divest their minds of any political or economic bias that Honourable Members may have against this Agreement and to approach the consideration of this question solely and exclusively from one point of view, and that is, is it or is it not for the benefit of India? Is there a *quid pro quo* for the benefit that India is going to confer by giving preference to English goods? Or is it entirely a *pro* without any *quid* in return?

I said that my only qualification for taking part in this debate is that I am interested in an industry which, I consider, will greatly benefit by the ratification of this Agreement. I refer to the planting industry, and more especially, the coffee planting industry. The figures for 1929 show that the United Kingdom imported in all about 3½ millions worth of coffee, or Rs. 5 crores worth, of which India supplied only £168,000 worth, or Rs. 20 lakhs worth, and India's average for the five years previous was £375,000, worth or Rs. 50 lakhs worth. On the average, then, from the figures it appears that England takes 8½ per cent. of her requirements from India, 36½ per cent. from the Colonies of British East Africa and the Dominions which, in 1930, supplied £1,800,000 worth of coffee, and the rest 55 per cent. comes from foreign countries. Roughly speaking, with regard to 55 per cent. of coffee which comes to England from foreign countries, namely, nearly four crores worth of coffee—that market is open to be captured and I venture to submit with all confidence that it is very likely to be captured by India if this Ottawa Agreement is ratified with regard to the preference given to coffee. And why do I say so? There is no doubt that in this country, especially in the provinces of Mysore, Coorg and Madras, there is a steadily increasing area which comes under coffee cultivation, but unfortunately, owing to the depression in trade and fall in prices, that cultivation is not as lucrative as it might have been. Now, coffee is a product which requires intensive cultivation more than any other planting crop that I am aware of. If there is any diminution in the intensity of cultivation, the amount of fertilisers used or any other cultivating operations that are devoted to coffee, then there is an immediate, direct and necessary fall in the output. What have been

[Mr. Lachand Navalrai.]

myself, but I would put it in the words of the opinion given in the House of Parliament by a prominent Member of that House with regard to the representative character of these Delegates, etc. I will read to you this. This is a contribution I find in the *Tribune*:

"The Ottawa debate in the House of Commons on Tuesday was so unreal, the ratification of the Agreement being a foregone conclusion, that it was not necessary to take any serious notice of it. Its only importance from India's point of view lay in the fact that it afforded that indefatigable friend of India, Mr. Laubsbury, an opportunity of proclaiming to the world that the Delegates who had been sent to Ottawa from India had no representative character and that the Indian mercantile community which really matters in a transaction like this, like the one gone through at Ottawa, had been ignored in spite of its vigorous protests. Those who went to Ottawa were nominees of the irresponsible Government of India and not representatives of the people of India. India has always been opposed to the vicious principle of Imperial Preference, no matter by what name it may be called."

Therefore the Delegates were not sent by the Indian people and they did not even consult the Indian people before going. Did they take any brief from them? As lawyers, we know how to make up our minds and to form our opinions. We get instructions from our clients with all the facts and then we are in a position to know what opinion to give to them. If the Delegates had been sent by the people of India, we would certainly have respected their views.

Then, for the second issue, we are asked to depend upon the assurances that we get from the Treasury Benches. That again is a fallacy. The Government of India are subordinate to the British Government and to the British Parliament. Now, how is it expected that we must

4 P.M. have faith in whatever this Government tell us, and that we should repose all confidence in whatever assurance they give us? Therefore, that is not the real test. But here I note that the Honourable the Commerce Member himself was very frank enough to tell us that he could give us no positive and absolute assurance that this would be to the benefit of India. Therefore, Sir, this issue is not proved. It is only hoped by him that it will likely be to the interest of India. Now, is that an assurance? Then, again, it is said that if it does not prove to be in the interest of India, then we can throw it out after six months. Sir, we all have a most unhappy experience of things which are done by the British Government here; we all know what hope there can be of such things being rescinded without much difficulty. This point has already been made clear to the House that it is very difficult, when a proposition like this is accepted, to get it revoked.

Then, the third consideration which ought to appeal to us is that it is the Indian people who should decide; and as the Government at present are not Indian and, as a new constitution is going to come in,—it may be that we may get a better prospect of a suitable constitution,—it will be then only that the Indian people can sit together and decide whether preference should be given or not. Sir, it is not only a question of give and take—which was the second issue laid down by the Honourable the Commerce Member. The real issue is, whether in giving and taking we are benefited.

Sir, the position of India is a peculiar one. We have got no industries in the first place. Our industries have been more or less annihilated by the process of British exploitation. We know how India was self-contained

and self-sufficient in these industries, and how, as history tells us, these industries came to be destroyed. Now, if there is any desire in the Indian Government to support the infant industries we have at present, there should be protection for India and no preference for others. I should say that if there are to be any preferences, they should be between countries that can compete with one another properly. But if it is going to be a case where preference is given to the competitors of our infant industries, then, I must say, we will be no where. Then the fourth course open to us is only one, and it is this, that we should be guided by Indian public opinion. Sir, we here may not be merchants, but we know it that after this Agreement was arrived at, Indian traders and Indian merchants and the Chambers of Commerce have given us their definite opinions and these definite opinions are not as vacillating or as vague as the opinion which has been given to us by the Treasury Benches here. They have gone into the pros and cons of the question and into all the points of preference with regard to particular articles and they have come to the conclusion that the Agreement will not be beneficial to India. Now, on that point, I would only submit that the Federation of Indian merchants have given their opinion, and issued a pamphlet. Then there is the Indian Merchants' Chamber, Bombay, and I shall only read for two minutes from their proceedings. Sir, at page 2 of their pamphlet which has also been sent to the Government of India, their Secretary says:

"My Committee have examined the Report, and can only reiterate their condemnation of the Agreement entered into. Indeed, from an examination of the arguments and the statistics contained in the Report, they feel more convinced than ever that the Agreement is not only not to the benefit of India, but is positively prejudicial to her economic interests."

Then I shall read one or two paragraphs from page 4 which will satisfy the House that their observations are not vague and unsupported by any detail. They say.

"The most amazing part of the Report is that in which an attempt is made to show that by keeping certain articles on the free list, the United Kingdom is conferring a boon on India, and that the Delegation have achieved some unforeseen gain for India by persuading the British Delegation to do so. The Delegation admit that in the case of those articles in which India possesses what amounts to a practical monopoly in the British market, a preference is 'nugatory'. They enumerate articles, like Raw Jute, Lac, Myrabolams, Broken Rice, Mica and certain varieties of Hemp, in which India enjoys such a monopoly. In spite of this, they make a laboured apologia to lead the public to believe that India has been favoured by the United Kingdom by keeping on the free list these raw materials of British industry."

Then, again, the consideration of the Delegation has been most superficial and one-sided, on the effects of India's non-participation in the scheme on her export trade to the United Kingdom. The largest items in this trade are, Tea, Jute, Hides and Skins, Raw Cotton and Oil-seeds. My Committee consider that the risk, which weighed in the minds of the Delegation, in the case of Tea, was most exaggerated. After all, India is the largest supplier of tea to the United Kingdom, and the ability of Ceylon to supplant India in the United Kingdom market is limited. An import duty on such a necessary of life inevitably falls on the consumer. So much has been said of the instance of tea that it calls for a little fuller examination. India exports to the United Kingdom Rs. 22 crores of Tea. Ceylon, the next largest supplier, exports about 18 crores. Now, if Ceylon got preference, and we did not, it could under-sell us in the British markets provided, of course, it were capable of totally supplanting Indian exports. But it is obvious that Ceylon cannot more than double its output. . . . A duty of 10 per cent. against Indian tea, 18 crores of which is wanted by Britain, can only result in raising the price of all tea imported into Britain. In that case, Ceylon would no doubt have the benefit of that higher price. All the same, the person who would be hit most would be not the grower in India but the consumer in Britain."

[Dr. F. X. DeSouza.]

the results of the depression of the last few years? A large number of planters have been obliged to reduce the quantity of manures and the several processes that are devoted to cultivation of coffee, with the result that the output has been considerably reduced. On the contrary, those with some staying power have tried the recent developments in cultivating operations and, by the application of special fertilisers and spraying and other methods, they have found that an expense of Rs. 10 extra per acre gives a profit of Rs. 50 per acre. If that is so, seeing that there is need for an outlet for coffee in outside countries, seeing that the area under cultivation is capable of indefinite extension, seeing that the outturn also is capable of further improvement by more intensive cultivation, am I not justified in the inference that in more prosperous times and, with preference given to Indian coffee in the English market, there is a great probability of greater sales and of greater profit to coffee planters in this country? Another reason for hoping that Indian coffee will realise higher profits and develop a better market in England is this. Hitherto we have been enjoying a preference of one farthing per pound against our rivals, Brazil and other countries. The Ottawa Agreement proposes to give us a preference of a penny a pound. There is no doubt that the demand in England is for a kind of coffee which is of a mild type, and the Indian coffee appeals to the English palate far more than the Brazilian coffee. Therefore, if that preference is given to the Indian coffee in the English market, the prices are likely to be such that the average consumer in England would prefer to buy Indian coffee as against Brazilian coffee. The total percentage of the Indian crop that the United Kingdom takes is 28 per cent, France 27 per cent, Germany takes 10 per cent, and the rest of the world takes the remainder.

It is said that if we give a preference to English manufactures in this country, the necessary consequence would be that foreign countries will retaliate against our own exports including, among others, coffee. But, Sir, there is a limit to retaliation. It is not as if coffee entered free in all the great countries of Europe. I find that in Jugo-Slovakia the duty is 80 shillings a cwt., in France it is 25 shillings a cwt. How far can this retaliation go? Retaliation so as to exclude Indian coffee would be very much like cutting one's nose to spite one's face.

Again, it was said that, after all, the planting industry of coffee and tea is in the hands of British planters here and that, whatever may happen, it is not likely that the British Government would penalise the produce of their own countrymen in this country. Sir, I deny the premise. It is not true that the bulk of the coffee planters,—whatever may be the case with regard to tea—in southern India are purely European. My Honourable friend, Mr. James, tells me that 69 per cent. of the planters are Indians in southern India, and that percentage, I can assure this House from my own knowledge, is steadily increasing.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member must conclude within five minutes.

Dr. F. X. DeSouza: The Indian planters have benefited by the example which has been set by the English planters who were the pioneers originally and to whom both Mysore and Assam owe a great deal for their enterprise in developing vast jungles and forests and making them yield

rich and profitable produce like tea and coffee. It is not true then to say that it is only the English planters that would benefit by the preference. Indian planters would lose a great deal if they lose the trade in coffee and tea.

One word more and I shall conclude. If we ratify this Agreement now, we are not precluded from repudiating it if, by experience, we find it works against our interests. We must remember, in approaching this question, that we are on the eve of obtaining Swaraj. (Mr. B. Das: "That is our point too.") Fiscal autonomy is one of the concomitants of Swaraj and, if a Swaraj Government, after considering the pros and cons, find it necessary by experience to repudiate this Agreement, I think that, in spite of what my Honourable friend, Mr. Sitaramaraju, said about the necessity of obtaining the sanction of the Council of State and guarding against the veto of His Excellency the Governor General, the Swaraj Government will certainly repudiate it. With these words, I support the Resolution moved by the Commerce Member.

Mr. Lalchand Navalrai: Sir, I must make it very clear to the House that this question is not an easy question that can be decided on the mere assurances that have been given to us. This is a question which requires great consideration. This is a question on which we should not be guided away by those that have considered this question at the Ottawa Conference. Nor can we be swayed away by any opinions which are being given in the British Islands. The only issue is this. We are not concerned whether this preference is beneficial to the British Islands or other places in the Empire, but we are concerned only with the point whether it is beneficial to the interests of India. Bearing that point in mind, I would request you to consider this question with facts and figures and not to be carried away by the arguments that are being put forward by the Treasury Benches. On this question there ought to be some way of finding a solution. The decision on this question must depend upon showing to the House that this preference is beneficial to India. The burden of proof is upon those who have brought forward this Resolution to ratify the Agreement and the House should not be led away by the misleading remarks made by Mr. Anklesaria who tried to misplace the burden of proof. Three issues were put before the House by the Commerce Member. The first issue was, why the Delegation went to Ottawa. We know that it went in the interests of the British Government. The British Government complicated the situation by introducing the Trade Import Bill in their own interest and it was, therefore, because the British Government wanted to get out of that complication, that they wanted the Indian Government also to join hands and to send some people to the Conference. The first question is, whether we should follow the lead given by those Indians who went to Ottawa. I say, that will be a false position. I know the Deputy President is an able man, he has got a mastery over economics. I know also, Haji Abdoola Haroon is a merchant who deals in sugar and other things, but those are not the qualifications that should go to satisfy us that what they have done is in the best interests of India. No one of us sent them. The Indian people never wanted that any Delegation should go. It is the British Government that wanted them to go and they went at the mandate of the British Government. Though they are Members of this Assembly, they were given no representative character by Indian people for the Ottawa Conference. I would not say anything about these gentlemen

[Mr. Lalchand Navalsrai.]

Sir, I ask your permission to say one word more. The danger to our infant industries is very much. For instance, aluminium is imported from the United Kingdom and other outside places. There are British manufacturers in India and also Indians handling aluminium, but the aluminium is imported by the same British people who own factories here. Therefore the Indian manufacturers are principally at their mercy for the purchase of the aluminium and also the quantity they could get from them. Indians are thus not able to compete with them and the only course open to them now is to make purchases from other outside countries and if you grant a preference to British goods, you then put the Indian manufacturer into a more hazardous position, *viz.*, that he will be entirely deterred from purchasing aluminium from other outside countries and be not able to compete at all with the British manufacturer, but to leave the market wholly to him. I think, therefore, that if these opinions expressed by the Chambers of Commerce and the Indian merchants are given due weight, it will be realised that they have proved that it is not at all in the interests of India to accept this Agreement.

Mr. B. V. Jadhav: Sir, at the outset I would like to offer my compliments to the Honourable the Commerce Member for presenting his case so very beautifully. He has made much of the points of which he could show some advantages to India and he has conveniently passed over other points on which he could not say much and, in this way, I think, he has taken a leaf out of or taken some instructions from his colleague, the Leader of the House, a very able lawyer. Sir, this side of the House has not yet made up its mind as to accept or throw away the Ottawa Agreement, but what I would wish is that sufficient time be given to consider the various provisions stated therein and to have some expert advice on the various points, and I like the idea of referring this question to the Tariff Board for detailed examination. Now this giving preference to Empire goods must be looked upon as a fair bargain. If India is giving up more and receiving less, then it would not be a fair bargain. We have, therefore, to see what we are to get and what we are to lose. For that purpose a detailed examination is certainly necessary.

Now, as a matter of fact, the Honourable the Commerce Member has shown us in what respects India is going to get preference. He has cited the instances of lac, myrabolam, tea and vegetable oil, etc., and some of my friends on this side have dealt with this point at some length and, therefore, I do not propose to take the time of this House. Now, Sir, the fiscal policy of India has been based to a little extent on the policy of protection and, to a certain extent, our import duties have been levied for the purpose of raising revenue. There are a few industries started here in India and the Government of India have found that, in order to give proper encouragement to these industries, import duties are necessary and, therefore, those duties have been levied. Under the Ottawa Agreement, the necessary protection to indigenous industries will be preserved. But, I am not quite sure, what the intentions of Government are as regards those duties which are levied for revenue purposes. Do they intend that the ten per cent. preference, that is to be given to Empire goods, is to come out of the present rate of duty or is the present rate to be increased by an additional ten per cent? My Honourable friend, Mr. Morgan, has clearly stated to this House that he was opposed to any addition to the existing duties in order to enable Government to

give preference to Empire goods and I fully agree with him; because the present duties for revenue purposes have raised the retail prices in the market and to that extent the purchasing power of the ryot is crippled. If these duties are to be further increased by ten per cent., in order to provide preference to the Empire manufacturers, then the purchasing power of the ryot will be further crippled and we shall be laying heavy duties upon the poor people here in order to feed the rich manufacturers of England and other places. So, if any preference is to be given, it ought to come out of the present duties which are levied for revenue purposes. And, if that is so, it is evident that the Indian finances will suffer. It is very difficult, Sir, for the Finance Member to make both ends meet even under the present circumstances and the condition of the Finance Department will be very difficult if the ten per cent. is to come out of the present duties which are levied for revenue purposes. This is a thing to be seriously considered, for it will throw our finances into confusion.

I have, Sir, to raise my feeble voice of protest for Government's way of accomplishing things. Government have been trying for a very long time to impose this preferential policy upon India. The first attempt that was made was about 1903 and we know what reception it had at the hands of the Government of late Lord Curzon. Then, there were certain other attempts and one of these recorded is when the Fiscal Commission was appointed. The question there raised was about preference at that time. You know very well, Sir, what the report of the Fiscal Commission was and the opinion of the minority has been quoted here so very often that I need not repeat it. Since then, on two occasions, Government have forced this Assembly indirectly to accept the principle of preference. Once it was in the case when some protection was to be given to the Tata Works and therein surreptitiously Government introduced a preferential tariff for British steel and iron products. The Members of this Assembly were placed in a very difficult position. It was in the hands of Government to push on the measure or to withdraw it and the Assembly was faced with the difficulty that if they did not swallow the sugar-coated pill of the preference to English steel and iron goods, then the measure for giving protection to the steel industry would also be withdrawn and the steel industry would fare very badly and might ultimately collapse. So the Members of the Assembly were obliged to give their consent to the surreptitiously introduced preference principle. Then, again, when the question of giving preference to the cotton piecegoods came, Government made use of the same policy. Although they assured the House that the passing of the measure would not be taken as accepting the principle of preference, still they have made use of the very two instances in the report of this Ottawa scheme that the Assembly has on two occasions accepted the principle and given its support to that principle. In the same way, they have now come forward and announced to the House that the Agreement has already been signed and, therefore, the date, the 15th November, is not a very important date. The principle has been surreptitiously introduced here that the Government of England, with the connivance of the Government of India, may sign any agreement on behalf of India and come before this House and say: "Now it has already been signed and tell us whether you approve of it or not". The signing of the Agreement is not left to us. We are not here to say whether the Agreement should be signed or not, because the Agreement has already been signed. We have only to say whether

[Mr. B. V. Jadhav.]

we approve of it or not and, perhaps, if we do not approve of it, Government may say that they will give six months' notice.

Now, Sir, it has been told us that some of the major Dominions and even foreign countries are very eager to come to terms with the Government of England and that they are ready to enter into agreement with them. Of course the country, which is suffering loss, may agree to enter into an agreement to better its chances. If India finds that it would be to her advantage to enter into the Agreement, then, we, on this side, will not be sorry and will not be lagging behind in giving our consent. But there is a good deal of difference between other agricultural countries and India. No doubt India is pre-eminently an agricultural country, but, at the same time, a major portion of our agricultural produce is taken up for home consumption and, therefore, we do not depend upon the export of our agricultural produce to foreign countries to such an extent as other agricultural countries do. Formerly India was a self-sufficient country, all her needs were supplied by home manufactures and our ultimate goal is to attain that position. Therefore, we are very anxious to encourage home industries here and such industries as would, in the long run, be able to stand severe competition of foreign manufacturers. For that purpose this House has been willing to give its consent even to heavy import duties for the protection of nascent industries. But the preferences that are proposed in Schedule F are so very numerous and are of such far-reaching effect that I am afraid they may ultimately kill some of our infant industries.

Reference has been made here to the aluminium vessel industry by my Honourable friend from Sind. The condition here is that vessels made of aluminium have been in the market for a very long time and many of the Indian firms have been engaged in manufacturing them and they have been importing aluminium disks from Germany and from Canada and from other places. Now, the British and Canadian manufacturers of aluminium disks are not content with exporting their disks only, but they have come to India and started their own factories in order to kill the Indian factories that have been working here for a number of years. They now hold the monopoly as far as the Canadian aluminium is concerned, and their competition has been found to be very severe by our Indian manufacturers. Now, this preference of ten per cent. will, I am afraid, be utilised by these foreign manufacturers who have established their own factories here in killing the Indian manufacturers. They will be getting the ten per cent. preference while the Indian manufacturers will be obliged to purchase their aluminium disks from Germany and other countries who do not enjoy this preference. The consequence will be that the Indian manufacturers will have to pay nearly ten per cent. more for their raw materials than the Canadian or the British manufacturers in India who will have to pay ten per cent. less and, in that way, the Indian aluminium industry will be killed.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member will please conclude in five minutes.

Mr. B. V. Jadhav: There is another industry which I want to bring to your notice and that is the industry of making bedsteads and iron furniture. There are certain small men who have been carrying on this

manufacture for about half a dozen years and they now stand threatened with extinction, because the iron bedsteads that will be imported from England will get a preference of ten per cent. and that is clear gain to them. It is evident that the iron that will be imported in India will have to pay the same duty as before, while the iron bedsteads that come from England will get a preference of ten per cent., so that the Indian manufacturer, who produces iron bedsteads, will be at a great disadvantage and it is feared that he will be thrown out of the market. From the newspapers, I see that even the makers of machinery are trying to ask for preference and perhaps their voice might be found too strong for the Government of India to resist and if the English machinery is to get preference of ten per cent., then the Indian manufacturers will be greatly handicapped. I see the Honourable the Commerce Member shaking his head. I, therefore, hope and, I am sure, that India will be saved from that danger.

A reference was made to the speech of Sir Herbert Samuel in the House of Commons, and my Honourable friend, Mr. James, said that the real arguments of Sir Herbert Samuel were in favour of the Ottawa Agreement, if other Members of the British Empire would also accept it. I think that that is a perfect answer which we, on this side, also will give. If the other Members of the British Empire are not going to accept the Ottawa Agreement, because they do not find it beneficial, for the same reason it ought not to be beneficial to India also. But India is in a dependent position and, therefore, the Indian Delegates could not refuse to sign that Agreement, while the Members, comprising the Delegation from other Dominions, were more free and they have not signed on that account. Sir Herbert Samuel was perfectly right in saying that if the pact was signed by all, then there would be something which would show that there was justice on all sides, but the abstaining from signing by other Members of the British Empire shows that this Agreement is not a fair one and, therefore, the diffidence that is felt by this side of the House is justified.

Mr. T. N. Ramakrishna Reddi: (Madras ceded Districts and Chittoor: Non-Muhammadan Rural): Mr. President, I rise to support the amendment moved by my Honourable friend, Mr. Sitaramaraju, which is to the effect that this matter of Ottawa Agreement should be first referred to the Tariff Board for a thorough enquiry before any legislation is introduced and considered in this Assembly. I must, at the outset, state that though I support that amendment, I do not agree with all that has been said by the Mover in support of this Resolution. Most of his speech was devoted to the political aspect of the question. I should say at the outset that I would like to view it from an economic aspect and not mix it up with the political aspect, because India cannot wait for economic freedom until she gets political freedom and so, I would rather view the Ottawa Agreement from its thoroughly business point of view and, if at all we have to get any benefits from the pact, I would be the first to support it. So, I would like to tell the Treasury Benches that we are anxious to view it only from its economic effect on India. The Ottawa Agreement accepts wholesale the principle of Imperial Preference and, in support of that, my Honourable friend, Mr. Anklesaria, quoted from the report of the Fiscal Commission to show that this report also supports the view that India can accept the principle of Imperial Preference. But he has

[Mr. T. N. Ramakrishna Reddi.]

quoted only those passages wherein the Fiscal Commission lays down the principles to be observed with regard to the applicability of Imperial Preference. But if he had quoted other passages, he would have found that paragraphs 238 and 239 have laid down clearly that the principle of Imperial Preference will adversely affect the interest of India. Sir, I will make no apology for reading this short paragraph. It says:

"The above examination of the existing preference granted to Indian products in the United Kingdom bears out our general proposition that Indian exports on the whole are not of a nature capable of benefiting to any great extent by preferential rates, particularly as much as can be granted in the United Kingdom."

Then again, in paragraph 239 they say:

"On the other hand it would no doubt be possible for India to offer substantial advantages to British products by the grant of preference to her imports. The nature of the British imports, which are nearly all manufactures, makes this clear, but we do not think that India can grant anything of great value without imposing a serious burden on herself, and it would not be reasonable for India to incur such a burden."

Sir, these passages make it clear that at present India will stand to lose and not to gain by accepting the principle of Imperial Preference. The situation has not changed considerably since the time this report was published in 1921-22. And so, if at all, the Government have to prove that things have changed and it is to the interest of India that we should accept this Imperial Preference. It is for Government to prove that. Then, Sir, the Delegates that went to the Ottawa Conference have accepted this principle and have acted upon it. That is clear from the statement in the report wherein they say that "hereafter it is a question of what India stands to lose and not what India stands to gain". It is with that view that they have entered into the Tariff Agreements. What are the reasons? The reasons also they have given, and, in their report, they say that England has now changed her tariffs and it has become now a full-blown protectionist country and gone far away from its free trade position. Secondly, they state that the Import Duties Act, by which a ten per cent. duty will be levied on all goods which enter England after the 15th November, will come into operation and so we have to come to some conclusion and we have to accept this principle, so that we may escape these duties.

With regard to the first point, namely, that England went off free trade and accepted the policy of protection, it is a purely domestic matter with which we are not concerned. What we are concerned with is that it should be used as an argument for Indian Delegates accepting this principle of Imperial Preference. Sir, we are not to be tied to the chariot-wheels of the British Parliament and follow a policy which they find useful to them. Already Sir Herbert Samuel has voiced his feelings in the House of Commons and has clearly stated that if the Liberal Government come into power, they are going to revert to the free-trade principle; and so the principle of protection which they have adopted will not be a permanent one. And if we are to be tied to the chariot-wheels of British tariff policy, then India stands to lose. Then, Sir, with regard to the second reason which they have given, that is, the threat of the application of the Import Duties Act, the Honourable the Commerce Member said that it is a real threat and not a bluff as some people would put it because, as he said, it equally affects the Dominions and the people of the Dominions are their own kith and kin, and,

therefore, it is not a bluff, but they meant it in all seriousness. With regard to this, I have to say that the Dominions were very anxious to enter into such Imperial Preferences for nearly 50 years. They have all the time been urging the mother-country to accept these preferences and it is the United Kingdom that was opposed to it and so when the United Kingdom said that they would like to enter into these Imperial Preferences, they accepted it with great alacrity, because they have been urging it for a long time. So it is only a bluff intended for India. Then, Sir, with regard to the import duties themselves, India is exporting only raw materials and also food, drink and tobacco to a large extent to the United Kingdom; and if at all they would levy these duties, we also have got the power to retaliate. And, further, it is to the disadvantage of England to impose any duties at all on raw materials. On this ground also we cannot support this principle of Imperial Preference.

Sir, in judging this question of Ottawa Agreement, we have to have before us two fundamental factors. The one factor is that the United Kingdom is gradually losing her hold upon her Empire markets, and the foreign countries like the United States, Germany, France, Italy and Japan are making serious inroads into their close preserve and carrying away their trade to a considerable extent. That is one important feature and, in support of that, I will only quote the statistics. The percentage of imports of merchandise to India by the United Kingdom in 1913-14 was 64 per cent., while in 1930-31 it has dwindled to 37.2 per cent. On the other hand, whereas countries other than the United Kingdom had a share of 30 per cent. in 1913-14, it has risen to 59.9 per cent. in 1930-31. Thus you can see that other countries have made great inroads into the preserve. The second point which we have to bear in mind is that India has been exporting raw materials to a great extent and receiving manufactured goods; and we also find in this Fiscal Commission's Report that it is to the advantage of manufactured goods that these preferential duties will operate and raw products do not stand in any need of preference at all. A few statistics will make it clear to show that India is exporting large quantities of raw materials to the United Kingdom and also food, drink and tobacco. India is exporting to the extent of 30 per cent. of value of articles of food, drink and tobacco, and with regard to raw materials, produced and unmanufactured articles, 43 per cent. of value, and in all 73 per cent., whereas it is importing 65 per cent. of value of the manufactured goods from the United Kingdom. Thus it is for the benefit of the United Kingdom that we should enter into these preferential tariffs. I do not want at this stage to enter into a detailed discussion with regard to the effect of these preferences on each and every article, but I would divide these articles into certain groups and prove that articles under some of those groups which we are exporting to England do not stand in need of any preference

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member will please conclude in five minutes.

Mr. T. N. Ramakrishna Reddi: I will do so, Sir. Certain articles which do not at all benefit by this preferential treatment are articles which India produces in great abundance and in which the capacity of the United Kingdom to absorb is very limited. Under this head come groundnuts, rice and jute manufactures and such other articles. For instance, India produces groundnuts to the value of 14 crores odd; whereas the

[Mr. T. N. Ramakrishna Reddi.]

United Kingdom absorbs at present only about 2½ crores. So the preference given to our groundnut does not at all benefit us. Because there is very little market in the United Kingdom for our products: it absorbs only 2½ crores whereas we have been producing to the extent of 14 crores; and so we have necessarily to go to foreign markets for that produce. So also rice. We are producing nearly 80 crores worth of rice, whereas the total absorption of the United Kingdom is only about 2½ crores; so necessarily we have to go to foreign countries and any preference given to this commodity will not be of much benefit; so also with regard to other articles—jute manufactures and others. Then there are other articles which come under another group wherein England absorbs large quantities and India produces only a small quantity and the Colonies are supplying to the United Kingdom to a greater extent. Here also the preference will not be of much avail, because in this case we have to compete with the Colonies if at all we have to capture the market in the United Kingdom since they also get the same benefits. At present we are producing these in very small quantity and preference is, therefore, of absolutely no benefit to us. There are other articles which we produce in which preferential rates will benefit India. Take the case of imports from the United Kingdom. At present the United Kingdom is importing certain manufactured goods in very small quantities for whom preferences are given while there is a very big market in India and India is getting most of these manufactured goods from foreign countries. For these cases it will take a very long time for England to capture the Indian market with these preferences and the consumer here will have to bear the burden for a pretty long time until England completely captures this market. So it will not be to the benefit of India to give any preferences for such commodities to England. Further, by giving such preferences to so many manufactured goods, it will kill the nascent industries of India. Of course it is said, that by giving preferences to certain articles, ultimately it is proved detrimental to the interests of India, we can give six months notice and terminate the Agreement. But previous speakers have already stated what difficulties there are in getting any Act of Legislature passed in the present Legislature to terminate such agreements. So when once it is passed, it will become a permanent feature. Thus there are sufficient grounds for submitting the Ottawa Agreements to an inquiry by the Tariff Board for enquiry as to how far and on what articles we can, with advantage, give preference and also receive preference. All I have to say is this: that it is better that this Agreement should first be thrashed out by a special Committee like the Tariff Board and then come before the Assembly with a considered report. With these words I support the amendment moved by Mr. Raju.

Mr. A. Hoon (Allahabad and Jhansi Divisions: Non-Muhammadan Rural): Sir, I thank you for permitting me to speak at this late hour and I hope the House will also be indulgent towards me, because I am sure I will not inflict a long speech or waste much of their time. The issue is very clear now. On the one side we are asked to ratify the agreement straight off and on the other side, the House has put forward amendments just with a note of warning and caution. The Opposition has asked the Honourable Member who has moved this Resolution to give them time to have the advice of their experts, to have the advice of those in whom

they have implicit faith; and considering that the crucial date, that is the 15th November, is not likely to interfere in this arrangement, I have no doubt that the Honourable Member will not grudge this concession to the House. Anyhow, as the debate has been going on, we on this side of the House, have only to substantiate and prove the necessity of asking for time for further consideration of the details of this Resolution. When a gentleman of the ability of the Honourable Member who moved this Resolution with all the resources behind him and with all the experts at his side was modest enough and frank enough at the same time to tell us that he felt a bit nervous in treading upon the thorny ground full of figures as far as these matters are concerned, I think we, on this side of the House, who are mostly laymen, would not be wrong if we cry halt and just ask a little bit of time more to reconsider this matter before we are asked to sign this Agreement and to ratify it. The Honourable the Mover of the Resolution has told us that the introduction of the Bill raising duties on the imports in England is going to be put into effect and that we would lose a lot of money if we did not ratify this Agreement. It may or may not be so—I do not know what is going to be its full significance in the near future, but the first idea, that strikes a layman like me is that. I look upon this attempt as a little bit of a coercive act. We all know on this side of the House that there is a very large number of Honourable Members who are concerned in what is called the Swadeshi movement. We are all helping to spread and increase the Swadeshi movement in this country as much as we can, and, coming as it does at this moment—a threat from a country like England which has always taken pride in its history of free trade.—I think we are fully justified in thinking that there is something more behind it than what appears on the surface. I submit, the first impulse that comes in the mind of a layman like me is to hit back. I say "away with your pranks; if I can hit you back, I will certainly do so", and I do not think that we are not in a position as not to be able to hit back with effect. After all, England's biggest market, as far as Lancashire cloth and other goods are concerned, is India. We have been trying to check the import of British cloth as far as possible, and there is no reason why, at this moment, we should not be able to tell the British people that if they are going to inflict these things on us, we have also got some weapon in our hands by which we can hit them back. And hence they should not be in a hurry and levy import duties on the 15th of November. If they want to talk to us in a friendly way, let us have time; we shall think over the matter and see what is best in the interests of all concerned.

Then, Sir, one has got to remember the fact that no Member of the House who has so far spoken has gone into the figures relating to this Agreement, simply because in matters of this nature incalculable points creep in. We have, at the very outset, to be very careful in judging one particular fact. We are, Sir, on the threshold of a new era in our national history. We want to take our proper place with all the other nations of the world. There is no reason why, if we start with an arrangement of this kind by giving preference to one country, we should not be putting all the other countries in a bad humour, and I submit that it will be a tragedy if our national life begins with such handicaps. National prejudices, settling down old accounts, jealousies and all sorts of things work in these matters, and we have got to be extremely cautious. Therefore, what we want from the Honourable Member opposite is that,

[Mr. A. Hoon.]

taking into account all these facts, he should give us time. We do not want years to settle these matters. We only want a reasonable time to have this matter inquired into, and then if all goes well, if all the assurances that he has held out to us are really good assurances, he will find us very strong co-operators to see that the whole thing is brought to perfect success.

Then, Sir, as far as the speech of the Honourable Member in charge of the Department of Commerce goes, I could see that he was trying to make out a strong case with regard to the question of the export of tea. There is no doubt that the export of tea is a very valuable asset as far as our country is concerned; but, as a layman, I think that there is a good deal of the bogey about the position that has been created. I am inclined to think that, considering the fact that the tea planters are mostly men from Britain, that the capital in the tea companies is mostly British the English people would not be so foolish or unpatriotic or unfriendly towards their own kith and kin as to destroy the tea industry.

Diwan Bahadur T. Rangachariar: They want safeguards.

Mr. A. Hoon: I should think that if we leave the question of the tea industry alone and do not attach to it undue importance, the tea planter, who is a Britisher, will become our friend, and he will go to the big Corporations in London moving from restaurant to restaurant and tell those people to look upon the Indian tea as British tea, because it is produced by British capital and British management in India. As such, if the question of tea is left into the hands of the British planter rather than in the hands of Mr. Chetty or Seth Abdoola Haroon, the question will be solved in a much better way.

Again, Sir, there is one other aspect of this question which I commend to the House for very serious consideration, and it is this. Whether we agree with the general populace of this country at this moment or not, we cannot get away from the fact that feelings at this time in the country are not towards buying anything British; much less are the feelings to enter into any trade or other agreements with Britain. We may agree with such a view or not, but we cannot forget this aspect of the question, because, after all, we are elected by our constituents, and we have got to answer them. We have got to do here what we are required to do by the wishes of the people, and not what we ourselves think proper. I again say that I may not be agreeing with the opinion of the public on that point, but I commend this point of view to the Members of the House who are elected.

Now, with regard to all these difficulties, there is suggested one solution. There is one point which was mentioned by the Honourable the Mover and which was very prominently brought out by all Members who asked us to support the ratification of this Agreement, and it is this, that if we are in any trouble, we can always cancel the Agreement by giving six months' notice. Sir, as a lawyer I may tell this House that I do not believe in any such nonsense. I know, and I think most of us know, what is the condition of a suit or a case between a poor man and a rich man. The case generally ends in success for the rich man, and the poor man may go on fighting and fighting and one does not know what may happen

eventually. My advice to the poor client always is to try and compromise any way he can, because fighting, even for the most righteous cause against a rich opponent is not a business proposition in the end. I am inclined to think that if we ever ask for the cancellation of this Agreement,—and a note of warning has been sounded,—we will not and we cannot succeed. Whatever constitution this country is going to get, there is going to be a House of Elders, and we know what they always do in matters of this kind. It will be practically impossible for us to cancel any such Agreement if we now enter into it. If we make great noise in the Lower House, probably the Government will set up another Round Table Conference, and we know who would be selected, and what would be the result.

With regard to the question of reciprocity, I would say that, as far as the Colonies are concerned, I would leave them out altogether. No temptation of any gain coming from that quarter would induce a man like me to enter into any negotiations with them. Why? Because my self-respect prompts me not to have any talk with them whatsoever. If those gentlemen from the Colonies want to talk to us, I only want them to give to the relations and friends of the Secretary for the Education Department the same treatment in that country which they have in this country as far as the civic rights are concerned. If they do that, then, of course, we shall talk to them and see what is best for us. With these few remarks, I commend the amendment of my friend, Dr. Ziauddin Ahmad, that the matter be referred to a Committee where experts may be asked to help us.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 9th November, 1932.

LEGISLATIVE ASSEMBLY.

Wednesday, 9th November, 1932.

3/

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

MEMBER SWORN.

The Honourable Sir Frank Noyce, Kt., C.S.I., C.B.E. (Member for Industries and Labour).

QUESTIONS AND ANSWERS.

1020—1025.*

TERMS AND CONDITIONS FOR THE RECOGNITION OF 'BUY INDIAN LEAGUES' AS LAWFUL ASSOCIATIONS.

1026. *Mr. S. C. Mitra (on behalf of Rao Bahadur B. L. Patil):
(a) With reference to the reply given by the Honourable the Home Member on the 15th September, 1932, to my supplementary question when replying to starred question No. 279, will Government state what are the exact circumstances under which a 'Buy Indian League' becomes an unlawful body or association?

(b) Will Government further state under what terms or conditions they are prepared to recognize 'Buy Indian Leagues' as lawful?

(c) Are Government aware that Indian mill-owners have petitioned the Government of India to take immediate steps to remedy the Japanese dumping of textiles and piece-goods?

(d) If so, are Government prepared to instruct the provincial departments of industries to work in co-ordination with such of the 'Buy Indian Leagues' and 'Swadeshi Leagues' that are ready to co-operate?

(e) Do Government propose to instruct Local Governments not to interfere with the work of the said Leagues unless and until there is positive proof that any League as a body is definitely associating itself with unlawful associations?

The Honourable Mr. H. G. Haig: (a), (b) and (e). I would invite the Honourable Member's attention to the letter dated the 11th April, 1932, addressed by the Private Secretary to His Excellency the Viceroy to the Western India National Liberal Association, Bombay, which deals with these questions in some detail.

(c): Yes.

(d) The question is one for Local Governments.

† These questions have already been answered; see pages 1486—88 of L. A. Debates, dated 28th September, 1932.

LOWEST SELECTION GRADE EXAMINATION IN THE POST OFFICES.

1027. *Mr. S. O. Mitra (on behalf of Rao Bahadur B. L. Patil): (a) Is it a fact that the Director-General of Posts and Telegraphs had prescribed an examination called the lowest selection grade examination for promotion to the posts of Head Clerks to the Superintendents of Post Offices and Inspectors of Post Offices and Railway Mail Service in the grade of Rs. 160—10—250?

(b) If the answer to part (a) above be in the affirmative, will Government be pleased to state the percentage of passes in the said examination?

(c) Is it a fact that the Director-General of Posts and Telegraphs has since stopped the lowest selection grade examination and ordered that the promotion to the posts of Head Clerks to the Superintendents of Post Offices and Inspectors of Post Offices and Railway Mail Service should be made from the ordinary time-scale officials according to their seniority combined with fitness?

Mr. T. Ryan: (a) Yes, a qualifying examination was prescribed for promotion to all posts in the lowest selection grade of Rs. 160—10—250 including those mentioned by the Honourable Member.

(b) The examination was abolished in February, 1932, and, according to the conditions of the examination, candidates were allowed more than one chance of appearing. Up to the time of the abolition of the examination, no candidate had finally failed to pass.

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

Dr. Ziauddin Ahmad: With reference to part (b) of the question, will Government be pleased to state the percentage of passes in the said examination? I did not follow the answer to this question.

Mr. T. Ryan: The position is that this examination, after being introduced, had to be made progressively easier to enable the older members of the staff to pass it. One concession made was that the examination might be taken in instalments, subject by subject, and each candidate, above a certain age, was allowed four chances of appearing. The result was that no candidate finally succeeded in failing to pass this examination and we decided that the examination was of no real use and we abolished it.

Dr. Ziauddin Ahmad: Is it the opinion of the Honourable Member that an examination is of no use if everybody passes it?

Mr. T. Ryan: An examination is, I think, of no use if the administration holding it finds it compelled to make it so easy that everybody can in effect pass it.

EXAMINATION IN ACCOUNTS WORK IN THE POST OFFICES AND PROMOTION TO THE POST OF HEAD POSTMASTERS.

1028. *Mr. S. O. Mitra (on behalf of Rao Bahadur B. L. Patil): (a) Is it a fact that the Director-General of Posts and Telegraphs has introduced an examination for the accounts work in the post office and had promised the qualified officials the posts of Head Postmasters?

(b) If the answer to part (a) above be in the affirmative, will Government be pleased to state the percentage of passes in the said examination and the number of such officials promoted to the posts of Head Postmasters?

Mr. T. Ryan: (a) The Honourable Member's attention is invited to the reply given by Sir H. A. Sams to Mr. B. P. Naidu's starred question No. 29 in this House on the 18th August, 1927, which fully explains the position.

(b) Five such examinations have been held. The average percentage of passes in the first four was about 15 and in the last, 22. As regards the last part of the question, Government have no information, as such promotions are made by Heads of Circles.

PROMOTION TO THE POSTS OF HEAD POSTMASTERS AND INSPECTORS OF POST OFFICES, ETC.

1029. *Mr. S. O. Mitra (on behalf of Rao Bahadur B. L. Patil): (a) Is it a fact that the posts of Head Postmasters are more responsible than the appointments of Head Clerks to the Superintendents of Post Offices and Railway Mail Service?

(b) If the reply to part (a) be in the affirmative, will Government be pleased to state whether the passed accountants are eligible for promotion to the posts of Head Clerks to the Superintendents of Post Offices and Inspectors of Post Offices and Railway Mail Service in preference to ordinary time-scale officials? If not, why not? Is it a fact that the latter are not as well versed in accounts work in the post office as the qualified accountants?

(c) Is it a fact that the accounts examination is more difficult than the lowest selection grade examination? If so, are Government prepared to carry out their pledge in respect of their promotions to the appointments of Head Postmasters or, at least, all these qualified officials now in the ordinary time-scale to the posts of Inspectors of Post Offices and Railway Mail Service and Head Clerks to the Superintendents of Post Offices and redress their long-standing grievance?

Mr. T. Ryan: (a) The duties of the posts in question are of widely different kinds and Government are not prepared to make any pronouncement as to their comparative responsibilities.

(b) Only such ordinary time-scale officials, as have passed a departmental examination, are eligible for promotion to the posts in question and passed accountants, who have also passed this examination, are equally eligible for such promotion. As regards the last part of the question, the position is generally as stated by the Honourable Member.

(c) As regards the first part of the question, the two examinations were entirely different and no comparison of their relative stiffness is possible. As regards the second part, the Honourable Member's attention is invited to the reply just given to part (a) of his question No. 1028.

The reply to the last part is in the negative: I am not aware of the pledge to which the Honourable Member refers.

CONFIRMATION OF LEAVE RESERVE CLERKS IN THE POST OFFICES.

1030. *Mr. S. C. Mitra (on behalf of Rao Bahadur B. L. Patil): Is it a fact that due to the introduction of lower division clerks as a measure of retrenchment in the Postal Department, the members of the present leave reserve in Rs. 40—5—140 scale are made to wait longer for their turn for confirmation as permanent clerks? If so, are Government prepared to convert the lower division appointments by giving alternate vacancies to these officials?

Mr. T. Ryan: Government have no information; the case is possibly as suggested but it is not proposed to institute enquiries since even if the fact were established it would not affect the decision to create Lower Division posts. The meaning of the Honourable Member's concluding suggestion is not understood.

ABOLITION OF THE POST OF ASSISTANT SECRETARY, PUBLIC WORKS BRANCH, DEPARTMENT OF INDUSTRIES AND LABOUR.

1031. *Dr. Ziauddin Ahmad (on behalf of Lieut. Nawab Muhammad Ibrahim Ali Khan): (a) Is it a fact that in the Department of Industries and Labour, owing to the transfer of a great deal of work of the Public Works Branch to the Industries side, the Assistant Secretary, Public Works Branch, has nothing to do?

(b) If the answer to part (a) be in the affirmative, do Government propose to abolish his post?

The Honourable Sir Frank Noyce: (a) The Honourable Member's supposition is entirely incorrect.

(b) Does not arise.

+1032*—1036.*

DUTIES AND ALLOWANCES, ETC., OF THE LIBRARIAN OF THE ARCHÆOLOGICAL DEPARTMENT.

1037. *Maulvi Muhammad Shafee Daoodi (on behalf of Maulvi Sayyid Murtuza Saheb Bahadur): (a) Will Government be pleased to state if the library of the Archæological Department also moves to Delhi along with the main office?

(b) If so, what is the amount of expenditure annually incurred in this connection?

(c) Will Government be pleased to state what the duties of the Librarian of the Archæological Department are?

† These questions have already been answered; see pages 1488—90 of L. A. Debates, dated 28th September, 1932.

(d) Is it a fact that the Librarian gets an allowance of Rs. 50 per mensem for six months during the winter season?

(e) Is it a fact that he pays a visit to Delhi every year during the winter season and stays there for a couple of months?

(f) If the reply to part (e) be in the affirmative, will Government be pleased to state:

(i) the object of the Librarian's stay in Delhi,

(ii) who performs the duties of the Librarian in Simla during the latter's absence, and

(iii) whether the substitute gets any allowance; if not, why not?

Mr. G. S. Bajpai: (a) No.

(b) Does not arise.

(c) The duties of the Librarian in the office of the Director General of Archæology in India are the same as those of any other Librarian.

(d) Yes.

(e) Yes.

(f) (i) The main object of his moving to Delhi is to assist the Director General of Archæology at Delhi in the reading of the proofs of the Annual Departmental Report. (ii) and (iii). There is not much demand for books during the winter months, which is the period of field work, so the Librarian can move to Delhi without detriment to his duty of issuing books.

PURCHASE OF PUBLICATIONS FOR THE LIBRARY OF THE ARCHÆOLOGICAL DEPARTMENT.

1038. *Maulvi Muhammad Shafee Daoodi (on behalf of Maulvi Sayyid Murtuza Saheb Bahadur): (a) Will Government be pleased to place on the table two statements showing the subject, language and price of each publication purchased for the Archæological Library in 1929-30 and 1931-32, respectively?

(b) Is it a fact that since the last two or three years most of the books required for the Archæological Department Library are purchased from Lahore booksellers?

(c) What percentage of discount is given by the Lahore booksellers and has the amount so received been credited to Government?

(d) What amount of discount was given by Messrs. Thacker, Spink & Company when they supplied the books?

Mr. G. S. Bajpai: (a) The statements asked for are placed on the table.

(b) No.

(c) No discount was given as all the books were not bought from one and the same bookseller.

(d) Ten per cent.

Subject.	Language.	Prices.
Bibliography	English	£ 0 15 0
History, Sind	Do.	Rs. 4 5 0
Literature, Persian	Do.	£ 3 15 0
Religion, Buddhism	Do.	£ 0 11 3
Religion, Palestine	Do.	£ 0 11 3
Archæology, Palestine	Do.	£ 0 11 3
History, Mesopotamia	Do.	£ 0 11 3
Palaography, Greek	Do.	£ 0 9 6
Persian literature	Persian	Rs. 24 0 0
Reference	(8 books.)	
Archæology, Indian	English	Rs. 7 8 0
Art, Egypt	French	£ 1 4 0
History, Europe	English	£ 1 19 9
Literature, Persian	Do.	Rs. 7 8 0
Ditto	Persian	Rs. 3 0 0
Ditto	Do.	Rs. 2 0 0
Archæology, Greek and Roman	Do.	Rs. 2 8 0
History, Mesopotamia	English	£ 0 18 0
Bibliography	Do.	£ 1 18 0
Literature, Egypt and Western Asia	Do.	Rs. 2 0 0
Archæology (Europe)	Do.	£ 9 5 11
Religion, India	Do.	£ 4 1 6
Pre-History	Sanskrit	Rs. 14 0 0
History, Orissa	English	£ 0 17 0
Archæology (British)	Do.	Rs. 20 0 0
Archæology (Europe)	Do.	£ 0 3 10
Topography, India	Do.	£ 0 14 6
Ditto	Do.	£ 0 8 0
Ditto	Do.	£ 0 10 6
Reference (Pali-English)	Do.	Rs. 6 0 0
Archæology, Greek	Pali-English	£ 0 7 6
History, India	English	£ 1 1 6
Literature, Indian	Do.	Rs. 5 0 0
Arts, Indian	Do.	£ 0 2 6
Ditto	Do.	£ 0 14 0
Religion, Roman	Do.	£ 0 3 9
Religion, Greek and Roman	Do.	£ 0 5 0
Religion, Buddhism	Do.	£ 0 5 0
Literature, Indian	Do.	£ 0 9 6
Archæology, Syria	Do.	£ 0 5 0
Palaography, Semitic	Do.	£ 0 12 6
Reference, English	French	£ 0 4 0
Ceramics, Greek, Roman and Etruscan	English	Rs. 5 8 0
History, Roman	Do.	£ 3 19 0
Archæology, Mesopotamia	Do.	£ 2 0 6
Art, Persian	German	£ 14 0 0
Archæology, Egypt	Do.	£ 0 16 6
Religion, Persian	French	£ 7 11 0
	English	£ 0 3 6

Dr. Ziauddin Ahmad: Why is this differentiation made between Messrs. Thacker Spink and other booksellers?

Mr. G. S. Bajpai: Well, I have explained in my answer that the booksellers in Lahore are asked to supply only one or two books whereas Messrs. Thacker Spink supply books in quantity.

FILLING UP OF THE POSTS OF DRAUGHTSMEN IN THE AGRA CIRCLE OF THE ARCHAEOLOGICAL DEPARTMENT.

1089. ***Maulvi Muhammad Shafee Daoodi** (on behalf of **Maulvi Sayyid Murtuza Saheb Bahadur**): (a) Will Government please state if the six newly created posts of draughtsmen in the Agra Circle of the Archaeological Department have been filled?

(b) If the reply to part (a) be in the affirmative, will Government please state:

- what the names, qualifications and the nationality of the candidates selected are,
- whether the posts were duly advertised and, if so, in what newspapers,
- whether the candidates selected are among those who applied for these in response to advertisements,
- if the reply to part (iii) be in the negative, what other procedure was adopted for selecting candidates and why, and
- whether the retrenched men were given an opportunity to accept these posts?

Mr. G. S. Bajpai: (a) Five of these posts have so far been filled.

(b) (i) A statement giving the names, qualifications and nationality of the candidates selected is laid on the table.

(ii) No.

(iii) Does not arise.

(iv) The posts were not advertised because a large number of applications from qualified draughtsmen including retrenched men were already available from which a selection was made of those considered most suitable.

(v) Yes.

Statement giving the names, qualifications and the nationality of the candidates selected for the posts of draughtsmen in the Northern Circle of the Archaeological Department.

Names.	Qualifications.	Nationality.
Mr. Gulab Chand .	Formerly temporary draughtsman in the office of the Superintendent, Archaeological Survey, Northern Circle, Agra, from 1929 until his retrenchment in September, 1931	Sikh.
Mr. Madan Mohan	Possesses 8 years' experience as draughtsman in the Central Public Works Department, New Delhi, and the office of the Divisional Superintendent, North Western Railway. Held a permanent post in the Drawing Branch of Railway Board of the Government of India until 15th June, 1932 when he was retrenched	
Mr. Qamruddin .	Worked for some time as a draughtsman in the office of the District Engineer, Agra, and then held a temporary post of draughtsman in the office of the Superintendent, Archaeological Survey, Northern Circle, Agra, from 1928 until his retrenchment in September, 1931.	Hindu.
Mr. Agha Mohd. Sadiq .	Retrenched from the office of the Superintendent, Archaeological Survey, Northern Circle, Agra	Muhammadan.
Mr. Gauri Shankar	His specimen drawings were examined and were found superior to those of other applicants	Do.
		Hindu.

LOSS IN THE WORKING OF THE SURVEY PRINTING OFFICE, DEHRA DUN.

1040. *Maulvi Muhammad Shafee Daoodi (on behalf of Maulvi Sayyid Murtuza Saheb Bahadur): (a) Are Government aware that the Printing Office attached to the Survey of India at Dehra Dun is working at a loss to the State? If the answer be in the affirmative, have Government taken any steps to avoid this? If not, why not?

(b) Is it a fact that there is no check of quantity of work by workmen of the output of the Survey Printing Office at Dehra Dun as is done in other Government Presses?

(c) Have Government considered the desirability of getting the accounts of the said printing office checked by the Government auditor every year with a view to knowing exactly how the press in question is working?

(d) Is it a fact that in the said press printing work of certain persons of the Survey Department is done free and private work of outsiders is also undertaken and charged for? Is it credited to Government? If not, who gets it?

(e) Is it a fact that experienced men taken from outside the presses to check the irregularities prevalent in the Survey Printing Office were retrenched? If so, why?

Mr. G. S. Bajpai: (a) The Survey of India Printing Office at Dehra Dun is employed on departmental work only and its cost is therefore directly charged to Government, there is no question of profit or loss in this.

(b) No. Daily check is maintained on individual outturn.

(c) The Printing Office is a section of the Geodetic Branch and the accounts of this Branch are audited every year by the Accountant General of the United Provinces. Separate accounts are not maintained for the Printing Office.

(d) The answer to the first part is in the negative. Other portions do not arise.

(e) Some men, who could not be usefully employed, were retrenched as a measure of economy, and not because of their alleged corrective activities, for which no special appointments were either necessary or made.

Dr. Ziauddin Ahmad: In view of the great loss in the printing, is it not possible for the printing to be done by some other printing works?

Mr. G. S. Bajpai: This question was gone into by the Controller of Printing a few years ago and he came to the conclusion that in view of the very technical nature of the printing to be done this office had better be maintained.

REPRESENTATIONS OF EMPLOYEES OF THE SURVEY PRINTING OFFICE, DEHRA DUN.

1041. *Maulvi Muhammad Shafee Daoodi (on behalf of Maulvi Sayyid Murtuza Saheb Bahadur): Is it a fact that representations of employees

of the Survey Printing Office, Dehra Dun, do not reach the officer in charge nor any employee is allowed an interview to ventilate his grievances to the officer in charge?

Mr. G. S. Bajpai: No, Sir.

RETENTION OF THE POST OF ASSISTANT SUPERVISOR IN THE SURVEY PRINTING OFFICE, DEHRA DUN.

1042. *Maulvi Muhammad Shafee Daoodi (on behalf of Maulvi Sayyid Murtuza Saheb Bahadur): Have Government considered the question whether it is at all necessary to retain the post of Assistant Supervisor in the grade of Rs. 225—375 to supervise a staff of 15 men in the Survey Printing Office at Dehra Dun?

Mr. G. S. Bajpai: The staff of the Printing Office consists of 24 men. The post of Assistant Supervisor on a time-scale pay of Rs. 225—15—375 was created in 1929 at the suggestion of the Controller of Printing and Stationery (India) who personally inspected the Printing Office. The arrangement has had excellent results, and the retention of an Assistant Supervisor having special technical qualifications is still considered essential for the efficient working of the Office.

IRREGULARITIES IN THE SURVEY PRINTING OFFICE, DEHRA DUN.

1043. *Maulvi Muhammad Shafee Daoodi (on behalf of Maulvi Sayyid Murtuza Saheb Bahadur): Is it a fact that the Controller of Printing and Stationery visited the Survey Printing Office at Dehra Dun and pointed out certain irregularities in his inspection report? Has any improvement been made in the direction as proposed by the Controller?

Mr. G. S. Bajpai: The answer to both parts of the question is in the affirmative.

PROPORTION OF RETRENCHED EMPLOYEES OF EACH COMMUNITY OF THE SURVEY PRINTING OFFICE, DEHRA DUN.

1044. *Maulvi Muhammad Shafee Daoodi (on behalf of Maulvi Sayyid Murtuza Saheb Bahadur): (a) Are Government aware that in retrenching the Survey employees in general and Printing Office employees at Dehra Dun in particular, no consideration was given to service, efficiency, cadre and community and Government orders in that respect were overlooked when retrenching men?

(b) Will Government please lay on the table a brief statement showing the proportion of retrenched employees of each community of the Survey Printing Office at Dehra Dun?

Mr. G. S. Bajpai: (a) Due attention was paid to considerations of service, efficiency and community in effecting retrenchment in the Survey of India including the Printing Office at Dehra Dun.

(b) A statement giving the desired information is laid on the table of the House.

Statement showing the number and percentage of retrenched employees of each community in the Survey of India Printing Office, Dehra Dun.

	Strength before retrenchment.	Retrenched.	Strength after retrenchment.	Percentage of retrenched men of each community to their original strength.
				Per cent.
Hindu	41	30	11	73
Moslems	24	13	11	54
Indian Christians	2	..	2	..
Total	67	43	24	64

MUSLIMS APPOINTED TO GAZETTED RANKS IN THE INCOME-TAX DEPARTMENT, PUNJAB.

1045. *Maulvi Muhammad Shafee Daoodi (on behalf of Maulvi Sayyid Murtuza Saheb Bahadur): Will Government kindly state the number of individuals appointed or promoted to the gazetted ranks of the Income-tax Department of the Punjab, etc., and the number of Muslims in those figures?

The Honourable Sir Alan Parsons: A statement giving the information required is laid on the table.

Communal composition of the staff of the Income-tax Department, Punjab, North-West Frontier Province and Delhi as it stood on 31st December, 1931.

	No. of posts.	Punjab, North-West Frontier Province and Delhi. Number held by Muslims.				
Assistant Commissioners of Income-tax	3	Nil				
	Punjab.		North-West Frontier Province.		Delhi.	
	Number of posts.	Number held by Muslims.	Number of posts.	Number held by Muslims.	Number of posts.	Number held by Muslims.
Income-tax Officers	30	6	4	2	3	1
Assistant Income-tax Officers	8	4	1	Nil	2	1

RENT PAID FOR BUILDINGS OCCUPIED BY THE INCOME-TAX DEPARTMENT AT LAHORE.

1046. *Maulvi Muhammad Shafee Daoodi (on behalf of Maulvi Sayyid Murtuza Saheb Bahadur): (a) Will Government please state the total number of buildings occupied by the Income-tax Department at Lahore and the annual rent paid for them?

(b) Are Government aware that the rent generally paid for these buildings is much higher than would be paid for similar other buildings in similar localities?

(c) Is it a fact that many of the owners of the buildings in question are either the relatives of the Superintendent of the office of the Commissioner of Income-tax or belong to his place of residence?

(d) Do Government propose to consider the advisability of appointing an Investigating Officer to find out whether the rents paid by the Income-tax Department are reasonable and fair?

(e) Do Government propose to enquire whether the Superintendent referred to above receives any commission or discount for the rents paid to the owners of the buildings?

(f) If the reply to part (e) be in the affirmative, are Government prepared to take steps to have the amount so far received by the Superintendent refunded by him and credited to Government?

The Honourable Sir Alan Parsons: (a) Three buildings for the permanent staff at an annual rent of Rs. 10,800. One building for the temporary staff on a monthly rental of Rs. 175.

(b) No.

(c) No.

(d) No.

(e) Certainly not.

(f) Does not arise.

† 1047*—1049.*

NUMBER OF MUSLIMS AND NON-MUSLIMS EMPLOYED IN THE INDIAN STORES DEPARTMENT.

1050. *Maulvi Muhammad Shafee Daoodi (on behalf of Maulvi Sayyid Murtuza Saheb Bahadur): Will Government please state the number of Muslims and non-Muslims (of the ministerial service) employed in the Indian Stores Department both at the headquarters as well as in the circles?

The Honourable Sir Frank Noyce: The attention of the Honourable Member is invited to the statements showing the communal strength of the ministerial staff of all the offices under the Central Government, a copy of which has been placed in the Library of the House.

† These questions have already been answered; see pages 1490-91 of L. A. Debates, dated 28th September, 1932.

GOVERNMENT CIRCULARS RE RECRUITMENT OF MUSLIMS.

1051. *Maulvi Muhammad Shafee Daoodi (on behalf of Maulvi Sayyid Murtuza Saheb Bahadur): (a) Are Government aware that Government Circulars regarding recruitment and retention of Muslims in Government services are totally ignored by the non-Muslim establishment officers?

(b) If so, what measures do Government propose to adopt in this connection to see that their orders are actually carried out?

The Honourable Mr. H. G. Haig: (a) No, Sir.

(b) Does not arise.

RETRENCHMENT OF THE POST OF ASSISTANT DIRECTOR OF ENGINEERING BRANCH IN THE INDIAN STORES DEPARTMENT.

1052. *Maulvi Muhammad Shafee Daoodi (on behalf of Maulvi Sayyid Murtuza Saheb Bahadur): (a) Is it a fact that acting upon the recommendations of the Retrenchment Committee, the Indian Stores Department retrenched the post of the Assistant Director of Engineering Branch, but that soon afterwards another man was appointed on the same job, though with a slight change in the designation?

(b) Will Government please state why the post of the Assistant Director of Engineering in the Indian Stores Department was retrenched? Is it a fact that a new post has been created instead and that another man has now taken up the new post?

The Honourable Sir Frank Noyce: (a) and (b). The post of Assistant Director of Purchase (Engineering) was abolished on the recommendation of the Chief Controller of Stores who reported that there was a decline in the volume of work in the Engineering Branch. This recommendation was supported subsequently by the Stores, Printing and Stationery Sub-Committee of the Retrenchment Advisory Committee. As the work of that Branch again increased substantially, it was found necessary to utilise the services of a junior leave reserve officer to cope with the increased work. No new post has been created.

Dr. Ziauddin Ahmad: Is it not a fact that the post was abolished on the recommendation of the Retrenchment Committee but on account of increase of work another man was promoted to occupy the very same position?

The Honourable Sir Frank Noyce: No, Sir. In the first place the post was not abolished on the recommendation of the Retrenchment Committee but on that of the Chief Controller of Stores himself. In the second place no new officer, as I mentioned, has been appointed to cope with the increased work. We are merely utilising the services of a junior leave reserve officer.

CONTRACTS SECURED BY MESSRS. DEWANCHAND AND SONS, CALCUTTA, FROM THE INDIAN STORES DEPARTMENT.

1053. *Maulvi Muhammad Shafee Daoodi (on behalf of Maulvi Sayyid Murtuza Saheb Bahadur): (a) Is it a fact that Messrs. Dewanchand & Sons, Calcutta, tendered for double backed imitation leather cloth, but supplied single backed cloth? Have Government appreciated the full significance of this case?

(b) What is the number of contracts Messrs. Dewanchand and Sons have been able to secure from the Indian Stores Department during the last four years?

The Honourable Sir Frank Noyce: (a) The allegation is being investigated by the Chief Controller of Stores.

(b) 285.

ENTERTAINMENT OF A SUPERINTENDENT OF THE INDIAN STORES DEPARTMENT BY CERTAIN FIRMS AT KARACHI.

1054. *Maulvi Muhammad Shafee Daoodi (on behalf of Maulvi Sayyid Murtuza Saheb Bahadur): (a) Are Government aware of the following facts?

The Superintendent of the Miscellaneous Branch of the Indian Stores Department while on leave during the last year went to Karachi. A firm of high standing and having large dealings with the Indian Stores Department placed a motor car at his disposal free of cost. Then a garden party was given in his honour by two firms to which two gazetted officers of the local organization of that Department were invited to meet him at the table, he being the principal guest of that evening.

(b) Have these facts been brought to the notice of the Chief Controller of Stores? If so, what action has been taken?

(c) Do Government propose to investigate into the matter or not?

(d) Is this entertainment against the Government Servants' Conduct Rules?

(e) Do Government propose to take any action in order to discourage such practice?

The Honourable Sir Frank Noyce: (a) Government understand that the Superintendent of the Miscellaneous Branch of the Indian Stores Department did not go to Karachi last year. The imputations in the question are thus entirely without foundation.

(b), (c), (d) and (e). Do not arise.

Mr. Lalchand Navalrai: May I ask the Honourable Member what is the rule governing the question of parties being given to officers by the firms with which they are concerned?

The Honourable Sir Frank Noyce: I should have to look up the Government Servants' Conduct Rules to give a full reply on that point. As I have pointed out, the question does not arise in this case as the officer in question did not go to Karachi at all and therefore no party could have been given to him.

SENIORITY OF THE CLERICAL STAFF OF THE INDIAN STORES DEPARTMENT.

1055. *Maulvi Muhammad Shafee Daoodi (on behalf of Maulvi Sayyid Murtuza Saheb Bahadur): With reference to replies given by Government to the question of Kunwar Hajee Ismail Ali Khan during the last Session of this House in Delhi in connection with the seniority of the clerical staff of the Indian Stores Department, will Government please state:

(a) if it is not a fact that the pay bills of the staff are prepared according to seniority in the grade;

- (b) if no seniority was announced when the whole staff of the Indian Stores Department was confirmed;
- (c) if there was no seniority fixed at the time of confirmation, how the pay bills were prepared, and how new comers to the Department were fixed in a scale;
- (d) on what basis were promotions effected from a lower division to an upper division;
- (e) whether it took about ten years to analyse the gradation of different men, and whether there are not cases where, for want of seniority, promotions of otherwise deserving men have been retarded; if so, whether and how Government propose to deal with such men now;
- (f) if it is a fact that during these ten years, and before the final fixation of a gradation list the further advancement of some men has been entirely stopped;
- (g) if it is a fact that the seniority of clerks in the Indian Stores Department has been altered more than once during the last ten years; if so, why; and
- (h) whether Government could not decide at the time of confirmation each one's position in his grade; and why it was found necessary to change seniority so often?

The Honourable Sir Frank Noyce: Three questions, viz., Nos. 96, 97 and 98 were asked on this subject by Kunwar Hajee Ismail Ali Khan in this House on 29th February, 1932, and the Honourable Member is referred to the reply then given. The Chief Controller of Stores is responsible to Government generally for the efficient administration of the Department and Government do not propose to call for further information regarding these administrative details, which are matters for his discretion.

DISCONTENT AMONG THE HINDU POSTAL EMPLOYEES AGAINST THE POST MASTER OF SIMLA.

1056. ***Bhai Parma Nand:** (a) Has the attention of Government been drawn to the resolutions passed by the Simla Posts and Telegraphs Hindu Union, and published in the *Daily Herald*, Lahore, dated the 18th August, 1932, and 1st September, 1932?

(b) Are Government aware that there is great discontent among the Hindu employees against the present Postmaster of Simla?

(c) Is it also a fact that there had been cases of such discontent against the Postmaster, Simla, while he was serving the Department in the Bengal and Assam Circle?

Mr. T. Ryan: (a) Government have seen the paper referred to.

(b) No.

(c) I understand that many years ago there were some complaints which, however, were not investigated.

Dr. Ziauddin Ahmad: May I ask whether the Government recognise the Union mentioned in this question?

Mr. T. Ryan: No, Sir.

DISCONTENT AMONG THE HINDU POSTAL EMPLOYEES AGAINST THE POST MASTER OF SIMLA.

1057. ***Bhai Parma Nand:** (a) Is it a fact that the employees of the Postal Department at Simla have got a Hindu Union which is affiliated to the Punjab Provincial Postal Hindu Union, Lahore?

(b) Are Government aware that the prominent members of the Postal Hindu Union, Simla, are being constantly harassed by the Postmaster, Simla, and some of them are retrenched and being transferred to other places for that very reason?

Mr. T. Ryan: (a) Government have no information.

(b) No.

GRIEVANCES OF THE HINDU POSTAL EMPLOYEES OF SIMLA.

1058. ***Bhai Parma Nand:** (a) Is it a fact that both the Town Inspectors of Simla and appointment clerk, Simla, belong to the Muslim community and the employees of the Post Office are mostly Hindus?

(b) Are Government aware that this has become the cause of many a grievance among the Hindu and Sikh employees? If so, are Government prepared to arrange to remove these grievances by replacing the appointment clerk by a Hindu, Sikh or Christian and by appointing a Hindu Town Inspector at Simla?

Mr. T. Ryan: (a) During the winter season there is only one Town Inspector in Simla. At present a Sikh is officiating in this post. During the summer season there are two Town Inspectors and last summer one of these was a Hindu. The appointment clerk, Simla, is a Muslim. It is a fact that the employees of the Simla Post Office are mostly Hindus.

(b) The reply to the first part is in the negative. As regards the second part, the appointments in question were made by the Postmaster-General, Punjab, and Government see no reason to interfere with the discretion of that officer.

Sir Muhammad Yakub: Are Government prepared to accept the same principle which is suggested by the questioner in cases where the Muslims are the aggrieved parties, which is generally the case in all departments?

Mr. T. Ryan: I do not understand clearly what is the precise principle involved, but certainly Government will abide by the same principles in respect of all communities.

Sir Muhammad Yakub: The principle is that of transferring the officer when the aggrieved party is a Muslim and the officer happens to be a non-Muslim which is generally the case.

Dr. Ziauddin Ahmad: Is it not a fact that I referred a similar case to the Director General and he returned it with a slap on my face that the Union could not be recognised as it was a Muslim Union.

Mr. T. Ryan: I did not catch the Honourable Member very clearly, but I think he charged me with having given him an impolite reply. I feel sure that he is mistaken.

Dr. Ziauddin Ahmad: The letter was signed by the Honourable Member himself. He refused to consider the case, although it was a very genuine case.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order. Next question, please.

GRIEVANCES OF THE HINDU POSTAL EMPLOYEES AGAINST THE POST MASTER OF SIMLA.

1059. ***Bhai Parma Nand:** (a) Is it a fact that the Muslim Town Inspector of Simla had been brought under retrenchment and in spite of that fact he has been kept on by the Postmaster, Simla? If so, why?

(b) Are Government aware that the persons who made certain allegations against the above Town Inspector are being harassed by the Postmaster, Simla, in various ways?

Mr. T. Ryan: (a) The reply to the first part of the question is in the affirmative and to the second part in the negative. The third part does not arise.

(b) No.

RETRENCHMENT OF FIVE INCOME-TAX OFFICERS IN THE UNITED PROVINCES.

1060. ***Bhai Parma Nand:** Are Government aware that under the re-organisation scheme of the Income-tax Department in the United Provinces, five Income-tax officers have been served with a notice to demit office by the afternoon of 31st October, 1932? If so, what is the principle in pursuance of which the above five persons have been selected for retrenchment?

The Honourable Sir Alan Parsons: Yes. Out of the five Income-tax Officers, one had put in a service of over 30 years and the other about 30 years. The other three were retrenched as their work had been reported to be unsatisfactory that their retention in the Department when others were being discharged was undesirable.

Mr. Lalchand Navalrai: Have the officers made any appeal to the Government?

The Honourable Sir Alan Parsons: Not so far as I am aware. Certainly no appeal has come before me.

OFFICERS OF THE UNITED PROVINCES CIVIL SERVICE ON DEPUTATION IN THE INCOME-TAX DEPARTMENT.

1061. ***Bhai Parma Nand:** Are Government aware that there are 12 officers of the United Provinces Civil Service on deputation to the Income-tax Department who get a deputation allowance of Rs. 100 per mensem and these officers are allowed the services of an examiner of accounts to help them in the examination of accounts whereas the directly recruited officers do this work unaided? Have Government considered whether it would not be more economical to send these officers back to their old posts and save the allowances paid to their assistants?

The Honourable Sir Alan Parsons: The facts are as stated in the first part of the question, except that the officers are not on deputation to the Income-tax Department and that their additional remuneration takes the form of special pay and not deputation allowance. The posts which they fill form part of the cadre of the United Provinces Civil Service and, if these posts were to be abolished, there can be no other posts in that service to which they could be reverted. The Government of the United Provinces were recently asked if they could take back one man who had been selected for retrenchment, but they have replied that they were not in a position to take back any Deputy Collectors for some time to come. They are not under any obligation to take back men from the Income-tax Department.

CREATION OF CERTAIN POSTS OF INSPECTORS IN THE INCOME-TAX DEPARTMENT OF THE UNITED PROVINCES.

1062. ***Bhai Parma Nand:** Are Government aware that under the re-organisation of the Income-tax Department, United Provinces, some posts of Inspectors have been created which have resulted in the reduction of the Income-tax officers? If so, why? How much saving do Government expect from this step?

The Honourable Sir Alan Parsons: Yes. With the exception of the United Provinces there is at present in all other Provinces a cheaper agency consisting of Inspector-Accountants or Examiners of Accounts who assist the Income-tax Officers in checking accounts of assesseees or do out-door work such as local enquiries, surveys, etc. This agency has now been introduced in the United Provinces but Government do not think that the efficiency of the Department will suffer, since it has not suffered in other provinces by the employment of a similar agency. The saving expected on account of the retrenchment of five Income-tax Officers and employment of Inspectors in their places is estimated at about Rs. 15,000 a year.

RECRUITMENT IN THE INCOME-TAX DEPARTMENT FROM THE RETRENCHED STAFF.

1063. ***Bhai Parma Nand:** Are Government prepared to issue instructions to the Income-tax Department that preference will be given to the retrenched officers in case of vacancy or recruitment to this Department in any other province provided they pass a test in the language of that province?

The Honourable Sir Alan Parsons: No. Out of five, three officers were retrenched on grounds of unsatisfactory work and two had put in thirty years service.

COMMUNAL COMPOSITION OF RECRUITING OFFICERS IN THE PUNJAB POSTAL DEPARTMENT.

1064. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Shaikh Fazal Haq Piracha): (a) Will Government be pleased to state the total number of Recruiting Officers such as Superintendents of Post Offices, Head Clerks to Superintendent of Post Offices, Post Masters, Inspectors of Post Offices, and Town Inspectors in the Punjab Postal Department?

(b) How many of each class are Hindus and how many Muslims?

(c) What is the percentage of Muslim and Hindu candidates for the above posts?

Statement showing the subjects, languages and price of each of the publications purchased for Archaeological Library during the years 1929-30 and 1931-32.

1929-30.

Subject.	Language.	Prices.
Photography	English	£ 0 2 0
Religion, Japanese	Do.	£ 0 1 0
Art, Indian	Do.	Rs. 20 0 0
History, Asia	Do.	£ 1 5 0
Religion, Buddhism	Do.	£ 0 15 0
Art, Japanese	Do.	£ 0 5 0
Reference (Directory)	Do.	Rs. 32 0 0
Arts, Indian	Do.	£ 0 1 0
History, Sumer	Do.	£ 0 8 0
Reference, English	Do.	Rs. 5 8 0
Egyptology	Do.	£ 3 1 0
Archaeology, Western Asia	Do.	£ 1 0 0
Anthropology	Do.	£ 0 18 0
Bibliography	Do.	£ 1 15 0
Arts, Persian	Do.	£ 0 15 0
History, Southern India	Do.	Rs. 10 0 0
Archaeology, Persian	French	£ 1 0 0
Ditto	Do.	£ 0 2 0
Ditto	Do.	£ 1 0 0
Epigraphy, Sumer	Do.	£ 2 0 0
Ceramics, Persian	Do.	£ 0 10 0
Epics, Indian	Sanskrit	Rs. 14 0 0
Archaeology, Central Asia	English	Rs. 2 0 0
Topography, N.-W. F. Province	Do.	£ 0 18 0
Technical Arts	Do.	Rs. 30 0 0
Archaeology	Do.	Rs. 10 0 0
Ethnology, China	Do.	£ 0 7 0
Ditto India	Do.	Rs. 15 0 0
Philology	Do.	£ 1 8 0
History, Asia	Do.	£ 0 15 0
Ditto	Do.	£ 0 10 0
Reference	Do. and French	Rs. 8 9 0
Ditto	English	Rs. 7 0 0
Ditto	Do.	Rs. 5 10 0
Ditto	Do.	Rs. 5 8 0
Ditto	Do.	Rs. 5 10 0
Epigraphy	Sanskrit	Rs. 14 0 0
Reference	English	£ 2 0 0
Archaeology, Asia Minor	Do.	£ 0 18 0
Ditto French Indo-China	French	Francs 330
Technical Arts	English	£ 0 5 0
Ditto	Do.	Rs. 25 0 0
Reference	Sanskrit	£ 5 0 0
Archaeology, Central Asia	German	£ 21 0 0
Topography, Sind	English	Rs. 120 0 0
Ditto Afghanistan	Do.	Rs. 75 0 0
Numismatics, India	Do.	£ 0 15 0
Archaeology, Mesopotamia	Do.	£ 0 5 0
Topography, India	Do.	Rs. 20 0 0
Reference	Do.	Rs. 15 0 0
Technical Arts	Do.	Rs. 20 0 0
History, India	Do.	Rs. 31 0 0
Ditto Sumer	Do.	Rs. 10 0 0
Reference (Dictionary)	Prakrit	Rs. 40 0 0
Archaeology, Indian	English	£ 3 0 0
Reference	Do.	Rs. 7 0 0
Religion, Buddhism	Do.	Rs. 25 0 0
Biography, Muslim	German	£ 0 15 0
Archaeology, Greek	English	£ 0 17 0
Arts, Indian	Do.	£ 0 17 0

1929-30—contd.

Subject.	Language.	Prices.
Chronology, Muslim	German	£ 0 15 0
Archaeology, Assyria	English	£ 0 3 0
Archaeology, Asia Minor	German	£ 0 5 0
Reference (Dictionary)	Pali-English	£ 0 7 0
Archaeology, English	English	£ 0 9 0
Statistics	Do.	Rs. 3 0 0
Bibliography	Do.	£ 0 5 0
Archaeology, Asia	French	£ 1 8 0
History	Do.	£ 1 19 0
History, Asia	English	£ 0 15 0
History, Afghanistan	Do.	£ 3 0 0
Topography, India	Do.	Rs. 12 0 0
History, Greek	Do.	£ 0 7 0
History, India	Do.	Rs. 40 0 0
Ditto	Do.	Rs. 35 0 0
Ditto	Do.	£ 1 10 0
Travels	Do.	Rs. 20 0 0
Ditto	Do.	Rs. 80 0 0
Bibliography	Do.	Rs. 40 0 0
Topography, India	Do.	Rs. 100 0 0
Archaeology, Mesopotamia	Do.	£ 1 0 0
Art, Muslim	Do.	£ 3 8 0
History, Egypt	Do.	£ 1 12 0
Archaeology, Greek and Roman	Do.	£ 3 8 0
Art, Persian	Do.	£ 0 12 0
History, India	Do.	Rs. 12 0 0
Ditto	Do.	Rs. 7 5 0
Pre-History	Do.	Rs. 30 0 0
History, India	Do.	Rs. 30 0 0
Archaeology, Mesopotamia	Do.	£ 1 10 0
History, America	Do.	£ 0 15 0
Religion (Islam)	Do.	£ 0 3 0
Religion, Chinese	Do.	£ 0 7 0
History, Europe	Do.	£ 1 15 0
Ditto	Do.	£ 0 15 0
Pre-History, Europe	Do.	£ 0 7 0
Archaeology, Asia Minor	Do.	£ 0 17 0
Ditto	Do.	£ 0 12 6
Archaeology, Syrian	Do.	£ 0 12 6
Archaeology, Egypt	Do.	£ 0 4 0
Archaeology, Syria	Do.	£ 0 7 0
Archaeology, Egypt	Do.	£ 0 17 0
Numismatics	Do.	£ 5 7 0

1931-32.

History, Babylon	German	£ 1 12 5
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Dr. Ziauddin Ahmad: The letter was signed by the Honourable Member himself. He refused to consider the case, although it was a very genuine case.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order. Next question, please.

GRIEVANCES OF THE HINDU POSTAL EMPLOYEES AGAINST THE POST MASTER OF SIMLA.

1059. ***Bhai Parma Nand:** (a) Is it a fact that the Muslim Town Inspector of Simla had been brought under retrenchment and in spite of that fact he has been kept on by the Postmaster, Simla? If so, why?

(b) Are Government aware that the persons who made certain allegations against the above Town Inspector are being harassed by the Postmaster, Simla, in various ways?

Mr. T. Ryan: (a) The reply to the first part of the question is in the affirmative and to the second part in the negative. The third part does not arise.

(b) No.

RETRENCHMENT OF FIVE INCOME-TAX OFFICERS IN THE UNITED PROVINCES.

1060. ***Bhai Parma Nand:** Are Government aware that under the re-organisation scheme of the Income-tax Department in the United Provinces, five Income-tax officers have been served with a notice to demit office by the afternoon of 31st October, 1982? If so, what is the principle in pursuance of which the above five persons have been selected for retrenchment?

The Honourable Sir Alan Parsons: Yes. Out of the five Income-tax Officers, one had put in a service of over 30 years and the other about 30 years. The other three were retrenched as their work had been reported to be unsatisfactory that their retention in the Department when others were being discharged was undesirable.

Mr. Lalchand Navalrai: Have the officers made any appeal to the Government?

The Honourable Sir Alan Parsons: Not so far as I am aware. Certainly no appeal has come before me.

OFFICERS OF THE UNITED PROVINCES CIVIL SERVICE ON DEPUTATION IN THE INCOME-TAX DEPARTMENT.

1061. ***Bhai Parma Nand:** Are Government aware that there are 12 officers of the United Provinces Civil Service on deputation to the Income-tax Department who get a deputation allowance of Rs. 100 per mensem and these officers are allowed the services of an examiner of accounts to help them in the examination of accounts whereas the directly recruited officers do this work unaided? Have Government considered whether it would not be more economical to send these officers back to their old posts and save the allowances paid to their assistants?

The Honourable Sir Alan Parsons: The facts are as stated in the first part of the question, except that the officers are not on deputation to the Income-tax Department and that their additional remuneration takes the form of special pay and not deputation allowance. The posts which they fill form part of the cadre of the United Provinces Civil Service and, if these posts were to be abolished, there can be no other posts in that service to which they could be reverted. The Government of the United Provinces were recently asked if they could take back one man who had been selected for retrenchment, but they have replied that they were not in a position to take back any Deputy Collectors for some time to come. They are not under any obligation to take back men from the Income-tax Department.

CREATION OF CERTAIN POSTS OF INSPECTORS IN THE INCOME-TAX DEPARTMENT OF THE UNITED PROVINCES.

1062. ***Bhai Parma Nand:** Are Government aware that under the re-organisation of the Income-tax Department, United Provinces, some posts of Inspectors have been created which have resulted in the reduction of the Income-tax officers? If so, why? How much saving do Government expect from this step?

The Honourable Sir Alan Parsons: Yes. With the exception of the United Provinces there is at present in all other Provinces a cheaper agency consisting of Inspector-Accountants or Examiners of Accounts who assist the Income-tax Officers in checking accounts of assesseees or do out-door work such as local enquiries, surveys, etc. This agency has now been introduced in the United Provinces but Government do not think that the efficiency of the Department will suffer, since it has not suffered in other provinces by the employment of a similar agency. The saving expected on account of the retrenchment of five Income-tax Officers and employment of Inspectors in their places is estimated at about Rs. 15,000 a year.

RECRUITMENT IN THE INCOME-TAX DEPARTMENT FROM THE RETRENCHED STAFF.

1063. ***Bhai Parma Nand:** Are Government prepared to issue instructions to the Income-tax Department that preference will be given to the retrenched officers in case of vacancy or recruitment to this Department in any other province provided they pass a test in the language of that province?

The Honourable Sir Alan Parsons: No. Out of five, three officers were retrenched on grounds of unsatisfactory work and two had put in thirty years service.

COMMUNAL COMPOSITION OF RECRUITING OFFICERS IN THE PUNJAB POSTAL DEPARTMENT.

1064. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Shaikh Fazal Haq Piracha): (a) Will Government be pleased to state the total number of Recruiting Officers such as Superintendents of Post Offices, Head Clerks to Superintendent of Post Offices, Post Masters, Inspectors of Post Offices, and Town Inspectors in the Punjab Postal Department?

(b) How many of each class are Hindus and how many Muslims?

(c) What is the percentage of Muslim and Hindu candidates for the above posts?

(d) What was the percentage of Muslims in the above posts before retrenchment?

(e) What is the percentage of Muslims after retrenchment?

(f) If the Muslim community is still inadequately represented in the above cadre, what action do Government propose to take to bring their number up to the mark?

Mr. T. Ryan: (a) Of the officers in question only Superintendents of Post Offices, Postmasters and Inspectors of Post Offices are recruiting officers. In the Punjab Postal Circle, there are 18 Superintendents of Post offices, 38 Postmasters and 45 Inspectors of Post Offices.

	Hindus.	Muslims.
(b) Superintendents of Post Offices including Assistant Postmasters General	3	9
Postmasters.	18	10
Inspectors of Post Offices	27	16
(c) Candidates for the cadre of Superintendents of post offices	Muslims 50 per cent., Hindus 33.3 per cent.	

These figures relate to departmental candidates and Probationary Superintendents in the Punjab Postal Circle, but the cadre of Superintendents of Post Offices being an All-India one, promotion to that cadre is not made on a provincial basis.

As regards candidates for the cadre of Postmasters, promotion to such posts is made according to seniority and fitness from the gradation list of officials on the ordinary clerical time-scales of pay and no separate waiting list of candidates eligible for such promotion is maintained.

As regards candidates for the cadre of Inspector of Post Offices, Muslims 38.5 per cent., Hindus 50 per cent.

I may remark that the orders regarding communal representation do not apply to departmental promotions to the three categories just named:

(d) Superintendents of Post Offices	39 per cent.
Postmasters.	26.31 per cent.
Inspectors of Post Offices	38.96 per cent.
(e) Superintendents of Post Offices	41 per cent.
Postmasters.	26.31 per cent.
Inspectors of Post Offices	36.49 per cent.

With regard to the last two categories, I may remark that with a view to maintaining as far as possible the communal proportions existing before retrenchments were made, they are taken together with the ordinary time-scale clerical cadre for purposes of retrenchment.

(f) Appointments to posts referred to by the Honourable Member are made by promotion to which the orders regarding communal representation do not apply. The Honourable Member is referred to the reply given to Mr. Anwar-ul-Azim's starred questions Nos. 72 and 380 in this House on the 5th September, 1928, and 30th January, 1929, respectively.

Dr. Ziauddin Ahmad: Is it not a fact that one Muslim Inspector was removed from office on the ground of the threat of a strike from certain persons?

Mr. T. Ryan: No, Sir. That statement has been repeatedly made and has repeatedly been contradicted. He was removed because he was thoroughly unsatisfactory. I myself went through his record of service, and I agree that a mistake was made. The mistake made was in retaining him in service for a number of years past.

Dr. Ziauddin Ahmad: Is it not a fact that the Director General issued instructions not to issue the orders for removing men from service before he had decided on the case, but that before he decided the case he was removed?

Mr. T. Ryan: No, Sir. I issue no instructions, in accordance with the well-known practice of not interfering unduly with the discretion of Postmasters General. I asked the Postmaster General in this case whether it would not be desirable to postpone the execution of his orders until the case had been reviewed on appeal. It was in reply to that letter that I was furnished with this individual's full record of service and the reasons why he was discharged, and, having read it, I concluded that the only mistake made was in retaining him for so long.

Dr. Ziauddin Ahmad: Is it not a fact that the order was issued before the Director General could make inquiries himself?

Mr. T. Ryan: It is a fact that orders discharging this man were issued before the case came to my notice. It came to my notice before the orders could be made effective, owing to the necessity of appointing somebody to take this man's place, it is true that in the intervening period this inquiry took place, and I found no need to interfere with the due execution of the orders.

Dr. Ziauddin Ahmad: I am not satisfied with the reply.

PERCENTAGE OF MUSLIMS IN THE TIME-SCALE CLERICAL CADRE IN THE PUNJAB POSTAL CIRCLE.

1065. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Shaikh Fazal Haq Piracha): Will Government be pleased to intimate:

- the percentage of Muslims in the time-scale clerical cadre in the Punjab Postal Circle before retrenchment,
- the percentage of Muslims after retrenchment, and
- the percentage of Muslim candidates on the waiting lists?

Mr. T. Ryan: (a) 38.1 per cent.

(b) 38.2 per cent.

Here also the remark I have just made in reply to part (e) of the Honourable Member's question No. 1064 applies.

(c) 34.76 per cent.

RETRENCHMENT OF MUSLIMS IN THE PUNJAB POSTAL DEPARTMENT.

1066. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Shaikh Fazal Haq Piracha): (a) Is it a fact that Government issued orders to keep the communal composition in view before effecting retrenchment?

(b) Is it a fact that Muslims have been retrenched in large number in the Punjab Postal Circle while Hindus and Sikhs having more than 80 years' service and some after attaining superannuation age have been retained in service (such as R. S. Iqbal Nath, Deputy Post Master, Simla, and Mr. Hira Lal, sub-record clerk, Railway Mail Service, Simla)?

(c) Is it a fact that the percentage of Muslims in the clerical cadre was very poor and has greatly been reduced by retrenchment?

(d) If so, are Government prepared to direct the retrenching officers to review the cases again and cancel the retrenchment order on Muslims?

Mr. T. Ryan: (a) Yes, the communal proportion existing before retrenchment began is to be maintained as far as possible.

(b) No. The selection of personnel for retrenchment was made strictly in accordance with the principle just referred to.

(c) The percentage of Muslims in the clerical cadre as a whole is the same as it was before retrenchment.

(d) Does not arise.

ORDERS re RESERVATION OF EVERY THIRD VACANCY FOR INADEQUATELY REPRESENTED COMMUNITIES IN THE POSTAL DEPARTMENT.

1067. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Shaikh Fazal Haq Piracha): (a) Is it a fact that the Government of India issued orders to reserve every third vacancy for the inadequately represented community (Muslims) in the Postal Department in November, 1927?

(b) Is it also a fact that the Director-General of Posts and Telegraphs being satisfied that the above orders were not being carried out generally by the recruiting officers of the Department issued a warning on the 3rd September, 1930, that if any officer in future disregarded these orders, he would not only be considered to have a communal bias but that some disciplinary action would also be taken against him?

Mr. T. Ryan: (a) The fact is not exactly as stated. Orders were issued by the Director General that in recruiting for the clerical establishments of the Posts and Telegraphs Department one-third of all permanent vacancies should be reserved for the redress of communal inequalities. The position has been fully explained in the replies given in this House to Mr. Muhammad Anwar-ul-Azim's starred questions Nos. 352 and 380 on the 7th March, 1928, and 30th January, 1929, respectively, to which the Honourable Member's attention is invited.

(b) Yes.

ALLEGED COMMUNAL BIAS OF THE POSTAL TOWN INSPECTOR OF SIMLA.

1068. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Shaikh Fazal Haq Piracha): (a) Is it a fact that before March, 1932, out of 270 postmen and lower staff of Simla there were only five Muslims and no less than 265 Hindus?

(b) Is it a fact that between November, 1927, and March, 1932, more than 85 vacancies occurred in the cadre of postmen and lower staff at Simla and that all of them were given to Hindus except two? If so, why?

(c) Is it a fact that the Hindu Town Inspectors were called upon to explain in July, 1932, for giving all the permanent and temporary posts to Hindus and keeping no Muslim candidate on the waiting list?

(d) Is it a fact that the charges were proved against the Town Inspector and that no punishment was inflicted on this account, and that he was appointed Divisional Inspector at Muzaffargarh?

(e) Will Government kindly state whether they have considered the desirability of taking disciplinary action against his superior officer who has failed to take action against a clear case of communal bias?

Mr. T. Ryan: (a) There were 260 postmen and inferior servants, of whom six were Muslims and 253 Hindus.

(b) There were 95 vacancies in the period in question, 45 of which were filled by promotion, 10 posts were not filled and the remaining 40 vacancies were filled by new recruits, of whom 39 were Hindus and one a Muslim. As regards the last part of the question, Government are enquiring into the matter and will take such action as they consider necessary.

Sir Muhammad Yakub: Will Government be pleased to state why only one Muslim was appointed?

Mr. T. Ryan: I think the Honourable Member did not hear my last remark:

"As regards the last part of the question, Government are enquiring into the matter and will take such action as they consider necessary."

Sir Muhammad Yakub: How long will it take? Probably one century more, when there will be no British Government in India.

Mr. T. Ryan: I think the Honourable Member is unduly pessimistic.

Sir Muhammad Yakub: More optimistic than I ought to have been. I may remark that the answers which have been given by the Honourable Member since yesterday as regards appointments in his Department are most disappointing to Muslims, and I must give expression to this.

Mr. T. Ryan: To continue my reply, Sir.

Sir Muhammad Yakub: Is the Honourable Member aware that his answers are considered by the Muslims as very unsatisfactory?

Mr. B. Das: Is it in order for an Honourable Member to interrupt before the answer of the Government Member is concluded?

(At this stage Sir Muhammad Yakub was making some remarks by way of interruption from his seat and there were some counter-interruptions.)

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order.

Mr. T. Ryan: I shall now continue my reply, Sir.

(c) One Hindu Town Inspector was called upon to explain his disregard of the 1927 vacancy rule in filling certain acting vacancies during the months of April, May, and June, 1932.

(d) The reply to the first part is in the affirmative. As regards the second and third parts, the facts are not exactly as stated by the Honourable Member. The Town Inspector was warned and transferred from Simla to his substantive post at Muzaffargarh as an Inspector of Post Offices.

(e) The Honourable Member is referred to the reply given to parts (b) and (d) above. Further investigation is being made.

ALLEGATIONS AGAINST THE HINDU POSTAL STAFF OF KASHMIR.

1069. *Kunwar Hajee Ismail Ali Khan (on behalf of Shaikh Fazal Haq Piracha): (a) Is it a fact that Mr. Booth, while Post Master General, Punjab, recorded in the order book of the Divisional Office of Kashmir that in view of the preponderance of the Hindu community in the postal staff there, in future both the Sub-Divisional Inspectors, Head Clerk to the Superintendent and the Postmaster, Srinagar, should be Muslims and as long as he remained in charge of the Punjab these orders were carried out, but as soon as he was transferred from the Punjab, all the Muslim Inspectors, Head Clerk to the Superintendent and Postmaster, Srinagar, were transferred and replaced again by Hindus?

(b) Is it also a fact that many cases of embezzlement of Government customs revenue for lakhs of rupees, of forging parcel receipts and other documents by the postal staff in this short period of the Muslims Officers' stay at Kashmir were brought to light?

(c) Is it a fact too that while some of the cases after full investigation by the police and by the department were challaned in the Courts, the Muslim officers responsible for the investigation, i.e., the Assistant Superintendent of Police and the Inspector of Post Offices were transferred from Kashmir and were replaced by Hindus?

(d) Is it a fact that the Deputy Postmaster General and Assistant Postmaster General of the Punjab made some enquiries in these cases? If so, with what result?

(e) Will Government state what was the result of these cases, how many officials were implicated and what happened to the cases, which were not challaned in the Courts, what departmental action was taken against the officials responsible and, at the same time, what action was taken to break up the preponderance of one community?

(f) Is it also a fact that it was in the beginning of this case that it was decided by the Post Master General, Punjab, to transfer some Hindu officials of Kashmir to the Punjab and to transfer some Punjab Muslims to Kashmir? If so, how many clerks were exchanged in this connection?

Mr. T. Ryan: (a) No.

(b) Some cases of embezzlement of State customs revenue came to light in August, 1928, but Government have no information as to the amount involved.

(c) Government have no information about the Assistant Superintendent of Police who is a State official. As regards the Muslim Inspector of Post Offices, he was transferred at his own request to Ferozepore, his home, after completing the usual term of three years, in November, 1930, when the customs duty fraud case was practically completed. He was succeeded by a Hindu Inspector.

(d) An Assistant Postmaster-General examined the procedure in the Srinagar post office relating to parcels to be charged with State customs duty, and his examination led to its revision.

(e) Six officials were implicated, five of whom were prosecuted but only one was convicted, three were discharged and one acquitted. No separate departmental action was considered necessary. As regards the last part, and part (f) of the question, an exchange of personnel between the Kashmir post offices and offices in British India was considered, but the proposal was dropped.

PAUCITY OF MUSLIM POSTAL CLERKS IN THE OFFICE OF THE SUPERINTENDENT OF POST OFFICES IN THE KASHMIR DIVISION.

1070. *Kunwar Hajee Ismail Ali Khan (on behalf of Shaikh Fazal Haq Piracha): (a) Is it a fact that out of the five, there is not a single Muslim postal clerk in the office of the Superintendent of Post Offices in the Kashmir Division?

(b) If the reply to part (a) be in the affirmative, since how long and what action do Government propose to take in order to ensure the posting of Muslim staff there to give due share of employments to Muslims?

Mr. T. Ryan: (a) and (b). Government have no information. The matter is within the competence of the Postmaster-General, Punjab and North-West Frontier, to whom a copy of the question is being sent but I may remark that it is not the business of a clerk to look after any communal interests.

COMMUNAL COMPOSITION OF THE STAFF OF THE "D" DIVISION OF THE RAILWAY MAIL SERVICE.

1071. *Kunwar Hajee Ismail Ali Khan (on behalf of Shaikh Fazal Haq Piracha): (a) Will Government be pleased to state the strength of the supervising, clerical and lower division clerks and menials of the 'D' Division of the Railway Mail Service at the close of 1927 and in July, 1932?

(b) What has been the communal composition of that staff in 1927 and 1932?

(c) How many vacancies occurred in each scale, and how many were given to Muslims?

(d) How many vacancies are lying vacant in each scale, and how many were given to Muslims?

(e) How many vacancies are lying vacant in each scale on account of non-availability of suitable candidates to be provided in the third vacancy rule?

(f) If the reply to part (c) be in the negative, what action do Government propose to take against the officials who disobeyed Government orders and the Director General's clear warning?

Mr. T. Ryan: (a), (b), (d) and (e). The information is not available and Government do not propose to call for it as its collection would involve an expenditure of time and labour not commensurate with the value of the result.

(c) 69 vacancies in the Upper Division clerical cadre and 32 in the inferior grades were filled by direct recruitment. Of these, 29 in the former and 13 in the latter were given to Muslims. Government do not consider that any useful purpose would be served by collecting the information regarding the vacancies which were filled by promotion or transfer of officials, as no weight is given to communal considerations in such cases.

(f) Does not arise.

STOPPAGE OF RECRUITMENT OF MEN OF THE PREPONDERENT COMMUNITY IN THE POSTAL DEPARTMENT.

1072. *Kunwar Hajee Ismail Ali Khan (on behalf of Shaikh Fazal Haq Piracha): (a) Is it a fact that the one-third vacancy rule was introduced in the Postal Department in supersession of Mr. Booth's Muslim recruitment scheme and has not produced the desired effect during the last five years' trial? Are Government prepared to consider the desirability of reverting to Mr. Booth's scheme again or of totally stopping the recruitment of the preponderent community?

(b) If not, how do Government propose to make the recruitment scheme more effective than at present?

Mr. T. Ryan: (a) and (b). The rule in question was introduced in 1927; it superseded certain special orders issued by Mr. Booth in respect of particular cadres in which the Muslim community was scarcely represented, but did not supersede any existing general scheme for Muslim recruitment. No changes in the existing orders are contemplated at present.

Dr. Ziauddin Ahmad: Did the Honourable gentleman consult the Home Department before altering these orders?

Mr. T. Ryan: I had nothing to do with it, Sir. I might add, however, that the orders referred to by Mr. Booth were, I believe, special orders, issued in particular cases, which were in conflict with the general orders of the Government of India and for that reason they were cancelled without, as far as my recollection goes because I did not deal with the case myself, particular reference to the Home Department.

Dr. Ziauddin Ahmad: Is it not a fact that the orders issued by the Home Department are applicable to the Posts and Telegraphs Department as well?

Mr. T. Ryan: Yes, Sir. It was for this reason that orders which were inconsistent with these were cancelled.

Dr. Ziauddin Ahmad: Will the Honourable gentleman be pleased to lay on the table these two orders, namely, those which were issued by Mr. Booth and those which were issued by the Home Department?

Mr. T. Ryan: I think that the Home Department orders, or their substance, have been repeated on the floor of this House at every meeting at which questions have been asked. As regards the particular order issued by Mr. Booth, I shall have no objection to placing a copy of it on the table of the House.

Dr. Ziauddin Ahmad: Thank you.

COMMUNAL COMPOSITION OF THE STAFF UNDER THE INSPECTOR OF POST OFFICES, SIMLA SUB-DIVISION.

1073. *Kunwar Hajee Ismail Ali Khan (on behalf of Shaikh Fazal Haq Piracha): (a) Is it a fact that the Inspector of Post Offices, Simla Sub-Division, has always been a Hindu?

(b) Will Government be pleased to give the total strength in each scale of the establishment under the Inspector of Post Offices, Simla Sub-Division, at the close of 1927 and in July, 1932?

(c) What is the communal composition of the staff in each scale?

(d) How many vacancies occurred after the issue of the third vacancy rule and how many were given to Muslims?

(e) In the event of non-availability of suitable candidates of the less represented community, have those posts been kept vacant in view of the orders of the Director-General? If so, how many vacancies are still lying vacant?

Mr. T. Ryan: (a) No.

(b) and (c). A statement giving the required information is laid on the table.

(d) Seven, of which six were utilised for the provision of retrenched officials of other divisions without regard to communal representation and the remaining one has been temporarily filled by a Hindu.

(e) There is no such order of the Director-General as that referred to by the Honourable Member.

Statement referred to in the reply to parts (b) and (c) of starred question No. 1073.

	At the close of July, 1932.	
	1927.	
Postmen	51	50
Inferior servants	17	17
Runners	73	110

(e) The communal staff in each scale in July, 1932, was as follows:

	Hindus.	Muslims.	Christians.
Postmen	46	3	1
Inferior servants	13	3	1
Runners	110	..	..

COMMUNAL COMPOSITION OF THE STAFF OF HEAD CLERKS OF THE POST MASTER GENERAL'S OFFICE, LAHORE.

1074. *Kunwar Hajee Ismail Ali Khan (on behalf of Shaikh Fazal Haq Piracha): (a) Has the attention of Government been drawn to an article on page 8 of the *Postal Advocate* for the month of July, 1932, stating that all the 14 Head Clerks of the Post Master General's Office, Lahore, and the Office Superintendent are Hindus?

(b) Is it a fact that of late one Muslim was appointed as Head Clerk of the appointment branch?

(c) Is it a fact that he has also been transferred from that post for one reason or the other?

(d) If a Muslim was appointed on administrative grounds, what was the defect in this appointment and how has the work been carried out for the last two years?

Mr. T. Ryan: (a) Government have seen the article in question but the facts as regards Head Clerks are not as stated. The actual position has been explained in the reply to Shaikh Sadiq Hasan's starred question No. 883.

(b), (c) and (d). As to whether a Muslim has lately been appointed as Head Clerk, and as to whether he has since been transferred and if so, for what reason, Government have no information, as these matters are regulated by the Postmaster-General.

VACANCIES IN THE POSTS OF ASSISTANT POST MASTERS GENERAL, PUNJAB.

1075. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Shaikh Fazal Haq Piracha): Is it a fact that two Muslim Assistant Post Masters General, Punjab, have lately vacated their posts, and that only one has been replaced by a Muslim and the other by a Hindu? If so, why?

Mr. T. Ryan: Of five Assistant Postmasters-General in the Punjab and the North-West Frontier Circle office lately, two were Muslims. One of these died and was succeeded by a Muslim. The other, who had completed five years' tenure of the post, was transferred elsewhere on the abolition of one post of Assistant Postmaster-General and has not been replaced.

POSITION OF ATTACHED OFFICE CLERKS FOR APPOINTMENT IN THE LOWER DIVISION OF THE IMPERIAL SECRETARIAT.

1076. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Shaikh Fazal Haq Piracha): (a) Is it a fact that in 1920 when the late Staff Selection Board came into being, certain clerks who held permanent appointments in the Lower Division of the Attached Office—Meteorological Department—appeared at the Board's examination to qualify themselves for employment in the Lower Division of the Secretariat?

(b) If so, how many qualified themselves for the purpose and how many of them have been provided in the Lower Division of the Secretariat?

(c) Will Government please state whether those men who held permanent appointments in the Attached Office in 1920 at the time of the creation of the late Staff Selection Board are regarded as qualified for employment in the Secretariat Lower Division without passing the prescribed Second Division Secretariat test?

The Honourable Mr. H. G. Haig: (a) Certain clerks of the office of the Director General of Observatories appeared for the 'Lower Division, Secretariat' in the examination held by the Staff Selection Board in 1920, but information as to whether they were holding permanent or temporary appointments at the time is not available.

(b) Information is being collected and will be laid on the table in due course.

(c) No, Sir. Those who are qualified for appointments in attached offices only and those who were not required to pass an examination for employment in an attached office have no claim to appointment in the Secretariat.

CONDITIONAL RETENTION OF CLERKS IN THE IMPERIAL SECRETARIAT PASSING THE ATTACHED OFFICE TEST.

1077. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Shaikh Fazal Haq Piracha): Will Government please state whether certain clerks who were declared qualified by the late Staff Selection Board for employment in the Attached Offices were allowed to continue to serve in the Secretariat proper on the express condition that they should not be allowed to cross the efficiency bar?

The Honourable Mr. H. G. Haig: I understand that there are no such cases.

INTENTION OF GRANTING HIGHER PAY IN OFFICIATING ARRANGEMENTS.

1078. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Shaikh Fazal Haq Piracha): Will Government please state whether higher pay in officiating arrangements is intended for increased responsibilities?

The Honourable Sir Alan Parsons: Partly. The Honourable Member will find a full account of the conditions attached to officiating pay in Fundamental rule 80.

POSITION OF LOWER DIVISION ATTACHED OFFICE CLERKS FOR APPOINTMENT IN THE THIRD OR ROUTINE DIVISION OF THE IMPERIAL SECRETARIAT.

1079. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Shaikh Fazal Haq Piracha): Will Government please state whether the men who were permanent in the Lower Division of an Attached Office at the time of the organisation of the late Staff Selection Board, and who appeared for the Lower Division Secretariat examination in 1920, but failed to qualify or who did not appear for such test, are considered qualified for the existing third or routine division of the Secretariat?

The Honourable Mr. H. G. Haig: This question is covered by my reply to part (c) of question No. 1076, which has just been answered.

APPOINTMENT OF UNITED PROVINCES CANDIDATES IN THE OFFICE OF THE DIRECTOR GENERAL, INDIAN MEDICAL SERVICE.

1080. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Shaikh Fazal Haq Piracha): Will Government please state whether recruitment to the ministerial services in the Government of India offices is made from one province, or from different provinces? If from all provinces, will Government please state whether any United Provinces men who applied and were present in Simla, or Delhi, have been appointed in the temporary vacancies which occurred in the office of the Director-General, Indian Medical Service, during the last 12 months? If not, why not?

Mr. G. S. Bajpai: Recruitment is not made on a provincial basis. The best qualified candidates readily available are appointed to temporary vacancies; permanent vacancies are filled by candidates nominated by the Public Service Commission. No candidate describing himself as a resident of the United Provinces applied for a temporary vacancy in the office of the Director-General, Indian Medical Service, during the last 12 months.

PAUCITY OF MUSLIM CLERKS IN THE GENERAL SECTION OF THE OFFICE OF THE DIRECTOR GENERAL, INDIAN MEDICAL SERVICE.

1081. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Shaikh Fazal Haq Piracha): Is it a fact that there is no Muslim clerk in the General Section dealing with the establishment questions in the office of the Director-General, Indian Medical Service? If so, will Government please state whether they propose to transfer one Muslim to that section?

Mr. G. S. Bajpai: Establishment questions in the office of the Director General, are not decided by clerks. With regard to the second part of the question, the attention of the Honourable Member is invited to the reply given in the Legislative Assembly by the Honourable the Home Member, on the 16th September, 1931, to part (b) of starred question No. 340.

REALISATION OF TERMINAL TAX ON PASSENGER TICKETS TO PURI, BHUBANESWAR AND SAKHIGOPAL.

1082. ***Mr. B. N. Misra:** (a) Will Government be pleased to state:

- (1) from what year they have been realising terminal tax on passenger tickets to (i) Puri, (ii) Bhubaneswar, (iii) Sakhi-gopal; and
- (2) the amount collected on the same account for each of the stations separately?

(b) Will Government be pleased to state if they have spent any amount for any purpose at any of those places mentioned above?

(c) If so, will Government be pleased to lay on the table a statement showing the amount collected under terminal tax for (i) Puri, (ii) Bhubaneswar, and (iii) Sakhi-gopal and the amount spent at the above places separately?

Mr. P. R. Rau: (a) (1) From 1921.

(2) The tax is at the rate of 1 anna for third class passengers, 1½ annas for intermediate class passengers, 2 annas for second class passengers and 6 annas for first class passengers and is levied on all passengers arriving at and departing from Puri, Malatipatpur, Sakhi-gopal, Delang, Khurda Road, and Bhubaneswar.

(b) The amounts collected are not retained by the Government of India, but handed over to the local authorities for expenditure on local purposes. The tax was imposed in order to provide funds for the improvement of the sanitary condition of Puri.

(c) Government consider that the collection of this information will entail the expenditure of labour incommensurate with its value and regret that they cannot comply with this request.

SIKH REPRESENTATION IN THE OFFICE OF THE DIRECTOR OF CONTRACTS, ARMY HEADQUARTERS, SIMLA.

1083. ***Sardar Sant Singh:** (a) Will Government please state the total permanent strength of the ministerial staff employed in the office of the Director of Contracts, Army Headquarters, Simla?

(b) How many of them are Sikhs?

(c) Are any vacancies likely to occur in that office in the near future? If so, how many?

(d) Do Government propose to appoint any Sikhs in these vacancies? If not, why not?

(e) What other steps do Government propose to take to bring the representation of Sikhs in this office to the proper level?

Mr. G. R. F. Tottenham: (a) 57.

(b) One.

(c) None, so far as can be foreseen at present.

(d) Does not arise.

(e) When vacancies occur, the usual proportion will be reserved for the rectification of communal inequalities.

GRIEVANCES OF THE STAFF OF THE SIMLA POST OFFICE.

1084. ***Sardar Sant Singh:** (a) Will Government kindly state whether they are aware of any unrest amongst the staff of the Simla Post Office? If the reply be in the affirmative, who is responsible for this unrest?

(b) Is it a fact that a deputation of postmen waited upon the Postmaster General, Punjab, in order to give vent to their grievances against the Postmaster, Simla? Is it also a fact that certain public meetings were held and certain resolutions were passed which were published in papers against the conduct of the Postmaster, Simla?

(c) If so, have Government taken any action on these resolutions? If so, what? If not, why not?

(d) Are Government aware that all this unrest came into existence since the arrival of the appointment clerk in Simla?

(e) If so, do Government propose to make an inquiry into the causes that have led to this unrest?

(f) Do Government propose to transfer the appointment clerk from Simla?

Mr. T. Ryan: (a) I have been led to believe that there is some little unrest amongst the staff. So far as I can judge it is kept alive by the advocates of different communal interests.

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

(c) No, because the allegations contained in the resolutions were unfounded.

(d) No.

(e) Does not arise.

(f) No.

Dr. Ziauddin Ahmad: Who is this Postmaster of Simla?

Mr. T. Ryan: The Postmaster of Simla is a Captain O'Dell, who is a very efficient Postmaster, I believe.

Dr. Ziauddin Ahmad: What were the specific charges against him that were mentioned in the resolutions?

Mr. T. Ryan: So far as I know there were none. I have just stated in my reply to the question that the answer is in the negative.

Dr. Ziauddin Ahmad: Does the Honourable Member mean to say that the resolutions practically said nothing?

Mr. T. Ryan: I did not say that.

Dr. Ziauddin Ahmad: What were the charges that were mentioned in the resolutions? They may or may not be correct.

Mr. T. Ryan: I am afraid I do not remember exactly what the charges were, but my definite information is that the deputation did not give vent to grievances against the Postmaster, Simla.

Dr. Ziauddin Ahmad: But the Honourable gentleman thinks that the charges were incorrect without knowing what those charges were?

Mr. T. Ryan: The question was asked—Whether a deputation of postmen waited upon the Postmaster General, Punjab, in order to give vent to their grievance against the Postmaster, Simla? The reply is in the negative.

Dr. Ziauddin Ahmad: And yet the resolutions were published in the newspapers!

PERSONNEL OF THE BOARD OF RETRENCHMENT CONSTITUTED BY ORDER OF THE POSTMASTER GENERAL, PUNJAB.

1085. ***Sardar Sant Singh:** (a) Will Government be pleased to state whether any Board of Retrenchment was constituted by the orders of the Postmaster General, Punjab? Who were the members of that Board?

(b) Is it a fact that the persons of the Board were not the same as ordered by the Postmaster General?

Mr. T. Ryan: (a) Yes. The board consisted of Captain H. O'Dell, Postmaster, Simla; Rai Sahib Iqbal Nath, Deputy Postmaster, Simla; and Mr. Nawab Din, Town Inspector, Simla.

(b) Owing to the illness of the Rai Sahib Iqbal Nath his place had to be taken by another official, but this change was also approved by the Postmaster General, Punjab.

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RESERVATION OF THIRD AND INTERMEDIATE CLASS COMPARTMENTS FROM KALKA TO DELHI.

1090. ***Mr. B. Das** (on behalf of Mr. Abdul Matin Chaudhury): (a) Is it a fact that reservation of third and intermediate class compartments used always to be allowed from Kalka downwards during the move of the Government of India to Delhi?

(b) Are Government aware that the Kalka station staff are refusing this year reservation of third and intermediate class compartments? If not, do they propose to inquire? If not, why not? If they are aware, will they be pleased to state the reasons why and under whose authorities the Kalka station staff are refusing such reservations?

†These questions have already been answered; see pages 1491—93 of L. A. Debates, dated 28th September, 1932.

Mr. P. R. Rau: (a) and (b). I am informed by the Agent, North Western Railway, that the reservation of intermediate and third class compartments has always been, and is also now being, allowed between Kalka and Delhi, so long as a suitable number of unreserved compartments is retained for the general public.

THROUGH RESERVATION OF A COMPARTMENT FROM SIMLA TO DELHI.

1091. ***Mr. B. Das** (on behalf of Mr. Abdul Matin Chaudhury): (a) Is it a fact that second and intermediate class reservations are being allowed from Simla to Kalka?

(b) Is it a fact that through tickets are being sold from Simla to Delhi?

(c) Is it a fact that the railway line running from Simla to Delhi is under the management of the North Western Railway? If so, will Government be pleased to state the reasons why through reservations of compartments of all classes including third and intermediate from Simla to Delhi cannot be arranged provided the passengers hold a sufficient number of through tickets from Simla to Delhi that would entitle them to reservation of a compartment on the broad gauge from Kalka to Delhi?

Mr. P. R. Rau: (a) and (b). Yes.

(c) The reply to the first part is in the affirmative. As regards the second part, the difficulty is that the number of seats in the various compartments of the broad gauge trains from Kalka differs considerably from that on the narrow gauge trains from Simla. It is, therefore, not always practicable to arrange to reserve through from Simla to Delhi a compartment with a carrying capacity equivalent to the number of tickets held from Simla. It is also difficult to say in advance what the carrying capacity of the compartments from Kalka will be on any train on a given day.

The Agent, North Western Railway, reports that information collected in this connection shows that requisitions for the reservation of intermediate and third class accommodation from Simla to Delhi have not been received, though Simla station has instructions to address Kalka for accommodation in the event of through booking being asked for.

I am also informed that the public apply to Simla station for reservations from Simla to Kalka and to Kalka station for reservations on the broad gauge.

RESERVATION OF THIRD AND INTERMEDIATE CLASS COMPARTMENTS FROM KALKA TO DELHI AND KALKA TO SIMLA.

1092. ***Haji Chaudhury Mohammed Ismail Khan:** (a) Are Government aware that a large number of third and intermediate class passengers getting reserved compartments from Simla to Kalka do not get reservations from Kalka to Delhi?

(b) Are Government aware that the station staff of Simla endeavour their utmost to meet the demands of third and intermediate class passengers for reservations during each move, whereas the separate applications to the Kalka staff for reservation from Kalka to Delhi or Kalka to Simla are in a majority of cases not complied with by the staff of Kalka during each move? If not, do they propose to inquire into the matter? If not, why not?

Mr. P. R. Rau: (a) I have dealt with this complaint in the reply I gave just now to the previous question.

(b) Government are not aware that the station staff at Kalka do not comply with requisitions for reserved accommodation to the extent that such accommodation is available and is paid for but information on this point has been called for from the Agent of the North Western Railway.

MISHANDLING OF INTERMEDIATE AND THIRD CLASS PASSENGERS BY THE KALKA STATION STAFF DURING THE MOVE OF THE GOVERNMENT OF INDIA.

1098. ***Haji Chaudhury Muhammad Ismail Khan:** Are Government aware that during each move of Government from Delhi to Simla owing to the mishandling of third and intermediate class passengers by the Kalka staff, most of the passengers travel by road motors and thereby the railway earning is reduced? If not, do they propose to inquire into the matter? If not, why not?

Mr. P. R. Rau: The reply to the first part of the question is in the negative. I propose bringing the Honourable Member's question to the notice of the Agent, North Western Railway, for such action as he considers necessary.

Dr. Ziauddin Ahmad: Will the Honourable Member admit that a large volume of traffic is diverted from railway service to road motor service?

Mr. P. R. Rau: That is no doubt so. It is a question of fact. But it is not due to the mishandling of third and intermediate class passengers by the railway staff.

CLASSIFICATION IN JAIL OF THE DICTATORS OF THE JAMIAT ULEMA-I-HIND

1094. ***Dr. Ziauddin Ahmad** (on behalf of Mr. M. Maswood Ahmad): (a) Will Government kindly state how many dictators of the *Jamiat Ulema-i-Hind* have been arrested in Delhi and imprisoned in 1931 and in 1932 up to 31st August?

(b) How many of them are still in jail?

(c) How many of them are in class A and how many are in class B?

(d) Is it a fact that some of them were classed A on a previous occasion, but this time they have been classed B or C? If the reply be in the affirmative, will Government state their names and the reasons for not treating them as class A prisoners?

The Honourable Mr. H. G. Haig: (a) None in 1931; three were sentenced to imprisonment in 1932 up to the 31st August.

(b) Three.

(c) One in class A and two in class B.

(d) The reply to the first part is in the negative; the second part does not therefore arise.

GRIEVANCES OF MUSLIMS AGAINST THE INCOME-TAX DEPARTMENT, PUNJAB, NORTH-WEST FRONTIER AND DELHI.

1095. ***Maulvi Muhammad Shafee Dacodi** (on behalf of Maulvi Sayyid Murtuza Saheb Bahadur): (a) Is it a fact that a deputation of leading Muslims headed by Nawab Colonel Sir Umar Hayat Khan Tiwana, waited on a member of the Central Board of Revenue in 1926, to express the long-standing grievances of the Muslim community in connection with the administration of the Income-tax Department of the Punjab, North-West Frontier and Delhi Provinces?

(b) Is it a fact that the deputation was assured that their grievances would be removed as early as possible?

(c) Are Government prepared to consider the advisability of appointing a Muslim to the vacancy likely to be caused by the retirement of the present incumbent of the post of Assistant Income-tax Officer?

The Honourable Sir Alan Parsons: (a) Yes.

(b) The deputation was assured that the Board was fully alive to the importance of seeing that the orders of Government on the subject of communal representation in the services should be observed.

(c) The Honourable Member obviously means the Assistant Commissioner of Income-tax and not the Assistant Income-tax Officer. I would invite the Honourable Member's attention to the reply which I gave to question No. 702 asked by Khan Bahadur Makhdum Syed Rajan Bakhsh Shah.

NON-RECOGNITION BY THE GOVERNMENT OF CEYLON OF PERSONS HOLDING INDIAN MEDICAL DEGREES.

1096. ***Mr. K. P. Thampan:** (a) Will Government be pleased to state if it is a fact:

(i) that the Government of Ceylon have ceased to recognise Indian medical qualifications obtained after February, 1930, and persons with such qualifications are not permitted to practise in Ceylon; and

(ii) that doctors with degrees obtained in Hong Kong, Singapore, and other places in the East are allowed to practise in Ceylon?

(b) Have Government taken any steps to remove this anomaly? If not, why not?

Mr. G. S. Bajpai: (a) (i). Yes.

(ii) Yes.

(b) Government have introduced legislation for the establishment of an Indian Medical Council and therein machinery exists which may improve India's position in this respect.

Mr. K. P. Thampan: May I know why the Ceylon Government have adopted this procedure?

Mr. G. S. Bajpai: It is not the Ceylon Government that have adopted this procedure. The position in Ceylon follows from the decision of the General Medical Council of Great Britain not to recognise Indian medical qualifications.

Mr. K. P. Thampan: May I know whether the standard of medical examination in Hong Kong, Singapore and other places in the East is superior to that of the medical examinations in this country, for instance, in Madras or Calcutta?

Mr. G. S. Bajpai: I am quite prepared to accept the suggestion of my Honourable friend opposite that Indian qualifications are superior to those acquired in Hong Kong and the Straits Settlements. But the point is that registration in Ceylon is regulated by the provisions of the General Medical Council Act of Great Britain and not by our opinion as to the qualifications of candidates from India.

Mr. B. Das: Apart from the decision of the General Medical Council, did the Honourable Member inform the Colonial Government of Ceylon that India will retaliate if Ceylon did not employ Indians in their medical service?

Mr. G. S. Bajpai: I have attempted to explain that the Government of Ceylon have no hand in this matter at all. The position in Ceylon has automatically followed from the exclusion of Indian Medical qualifications from the British Medical Register.

Mr. S. G. Jog: Did the Government of Ceylon consult the Government of India before they took action in this direction?

Mr. G. S. Bajpai: The Government of Ceylon have had no initiative in the matter at all. The initiative was taken by the General Medical Council which, as the House is aware, decided two years ago to withdraw recognition from Indian Medical qualifications.

Mr. Lalchand Navalrai: Has the Government of India ever made any attempt to ask the British Medical Council to make an exception in this case and amend the rule and allow Indians also to be employed in Ceylon Medical Service?

Mr. G. S. Bajpai: Even the British Medical Council, if requested, could not make an amendment of the rule, because the provision is a provision of an Act and not any rule made by the British Medical Council.

Mr. Lalchand Navalrai: The Act by whom?

Mr. G. S. Bajpai: The Act by the British Parliament.

Mr. Lalchand Navalrai: Is it difficult to make an attempt to ask the British Parliament to amend that rule?

Mr. G. S. Bajpai: It seems to me that when this Legislature has before it a Bill which is intended to regularise the position not merely as regards Ceylon but as regards the whole of the British Empire, it is unnecessary to ask the British Parliament to legislate only in respect of Ceylon.

Mr. Lalchand Navalrai: Have the Government of India made any provision with regard to that in the proposed Bill?

Mr. G. S. Bajpai: The Bill was introduced, I understand, last March in this House and my Honourable friend has had as much opportunity of studying its provisions as I have. I think a provision does exist.

Mr. Lalchand Navalrai: It is not a question of whether I read the Bill or not, I may have missed the provision, but in view of the fact that the Honourable Member has read the Bill, will he tell the House definitely whether such a provision exists or not?

Mr. G. S. Bajpai: I think such a provision has been made.

Mr. S. G. Jog: Did the Government of India convey to the Ceylon Government our feeling in the matter and ask them to suspend the operation of that provision of the British Medical Council until the Medical Council Bill is passed in this Legislature?

Mr. G. S. Bajpai: Apparently nothing, that I can say, will remove the misconception from my Honourable friends' minds. I have already said that it is not in the power of Ceylon Government to do anything in the matter. Action has been taken in consequence of the decision of the General Medical Council of Great Britain to withdraw recognition from Indian Medical qualifications. The only thing that can rectify the position is the withdrawal of that non-recognition.

Mr. B. Das: May I enquire if any Ceylon medical graduate has been employed in India after 1930 and, if so, will the Honourable Member take steps to dismiss him at once?

Mr. G. S. Bajpai: I have not made enquiries as to whether any Ceylon medical graduate has been employed in any part of India. As the Honourable Member is well aware, medical administration is a transferred subject. But I am prepared to make an enquiry into the matter.

Dr. Ziauddin Ahmad: May I ask whether the Medical Council Bill will come up for discussion in the Assembly this Session?

Mr. G. S. Bajpai: The Bill will not be before the House this Session.

Mr. K. P. Thampan: May I ask, whether the Government of India could not make a representation to the General Medical Council that, in view of the fact that necessary legislation is going to be introduced in this Legislature, they should keep the rule in abeyance until the Bill is passed into law?

Mr. G. S. Bajpai: It is a very long story. My Honourable friend is well aware that everything which the Government of India could say to the General Medical Council has already been said as regards the recognition of Indian degrees.

Sardar Sant Singh: Have the Government of India stopped further recruitment of medical men with English qualifications? (Hear, hear.)

Mr. G. S. Bajpai: It is a question which ought to be addressed to my Honourable friend, the Army Secretary.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Next question, please.

STANDARD OF MEDICAL EDUCATION IN INDIA.

1097. *Dr. Ziauddin Ahmad: (a) Is it not a fact that the Government of India are responsible for the proper maintenance of the standard of medical education in India?

(b) What are the methods which Government use for examining the standard of medical education?

(c) Do the hospital instructions form part of medical education?

Mr. G. S. Bajpai: (a) The regulation of medical qualifications and standards is a reserved provincial subject, subject to legislation by the Indian Legislature. The Government of India, however, exercise powers of superintendence, direction and control, under section 33 of the Government of India Act, over Local Governments' administration of the subject.

(b) The Government of India have at present no methods for examining the standard of medical education, but machinery for the purpose is provided in the Bill for the establishment of an Indian Medical Council.

(c) Yes.

STANDARD OF TAKING REST AT OUT-STATIONS FOR RAILWAY MAIL SERVICE OFFICIALS.

1098. Mr. S. G. Jog (on behalf of Sardar G. N. Mujumdar): (a) Will Government be pleased to state whether any standard has been laid down, in the case of the Railway Mail Service officials working in sections, with regard to the taking of rest at out-stations, after completion of their prescribed duty in running trains; and, if so, to what effect?

(b) If the reply to part (a) above be in the negative, will Government be pleased to state whether they intend to prescribe one?

Mr. T. Ryan: (a) There is no such standard.

(b) No.

DATA FOR REGULATING STAFF REQUIREMENTS OF THE ACCOUNTS BRANCHES OF THE HEAD RECORD OFFICES OF THE RAILWAY MAIL SERVICE.

1099. *Mr. S. G. Jog (on behalf of Sardar G. N. Mujumdar): (a) Will Government be pleased to state whether, as is the case of Post Offices, any data have been fixed to regulate the staff-requirements to work in the Accounts Branch of the Head Record Offices of the Railway Mail Service, and, if so, to what effect?

(b) If the reply to part (a) above be in the negative, will Government be pleased to state whether they intend to prescribe one?

Mr. T. Ryan: (a) The reply is in the negative.

(b) The accounts work in the offices in question is comparatively small and Government do not consider that it is necessary to lay down a formula for determining the strength of the staff required to cope with it.

APPOINTMENTS OF OFFICER SUPERVISORS AT THE ARMY HEADQUARTERS.

1100. *Mr. S. C. Mitra: (a) Is it a fact that the appointments of Officer Supervisors at the Army Headquarters are, in practice, reserved only for Europeans?

(b) What is the total number of these appointments and how many of these are now permanently held by Europeans and how many by Indians?

(c) Will Government state the reason for the extremely small proportion of Indians in these appointments as compared to Europeans?

(d) On what principle are selections made to these appointments?

(e) What are the educational and other academical qualifications of the Europeans now holding these posts, and are these qualifications generally superior or inferior to those of the Indian Superintendents and Assistants at Army Headquarters?

(f) Will Government state the number, since 1924, of European Superintendents who were selected for Officer Supervisor's Appointments in the ordinary course and were subsequently found unfit for the appointments and had to vacate those appointments either by reversion or retirement, etc.?

Mr. G. R. F. Tottenham: (a) No, Sir.

(b) There are 20 of these appointments. At present 19 are held permanently by Europeans and one by an Indian.

(c) Because the practice of employing Indians in the higher grades in Army Headquarters is itself of comparatively recent origin. There are thus not many Indians who are yet senior enough to be considered for appointment as Officer Supervisors.

(d) The principle of choosing the best man available with due regard to seniority and merit.

(e) British soldiers or ex-soldiers holding the appointments possess the Army 1st Class Certificate. Some Indian Assistants and Superintendents possess higher academic qualifications, but a man's intelligence, and capacity for administrative work, cannot be judged solely by the examinations which he has passed.

(f) One.

Mr. S. G. Jog: May I know what are the other tests applied for testing his capacity in addition to his education?

Mr. G. R. F. Tottenham: The selection is made by the Principal Staff Officer concerned who has practical knowledge of the ability of the man in the inferior post which he has been occupying hitherto.

NUMBER OF PETITIONS RECEIVED BY THE ARMY DEPARTMENT SECRETARIAT AGAINST DISMISSAL, DISCHARGE, ETC.

1101. *Mr. S. C. Mitra: (a) Will Government state the number of petitions received and dealt with by the Army Department Secretariat in 1930, 1931 and by the end of August, 1932, against dismissal, discharge, removal from service and supersession in promotion or selection to higher appointment?

(b) Will Government state how many of these petitions were:

(i) rejected;

(ii) accepted in full;

(iii) accepted in part; and

(iv) how many of the successful applicants in (ii) and (iii) were Europeans, and how many of them were Indians?

(c) Is it a fact that Government are averse to accepting any appeal in such cases as a matter of principle and discipline, however genuine the grievance may be?

(d) If the reply to part (c) be in the negative, will Government state the reasons why the number of appeals which are accepted is so small?

Mr. G. E. F. Tottenham: (a) and (b). The information required is not readily obtainable and could not be compiled without an undue expenditure of time and labour.

(c) No, Sir. Each appeal is dealt with on its merits.

(d) Because the original orders are generally passed with great care and do not require modification.

APPOINTMENT OF ONE MR. RADHA KISHAN, AS ASSISTANT CHIEF CLERK OF THE BOMBAY, BARODA AND CENTRAL INDIA RAILWAY CARRIAGE AND WAGON SUPERINTENDENT'S OFFICE, AJMER.

1102. ***Maulvi Muhammad Shafee Daoodi:** Will Government state whether it is a fact that Mr. Radha Kishan, the present Assistant Chief Clerk of the Bombay, Baroda and Central India Railway, Carriage and Wagon Superintendent's office, Ajmer, was working in 1900 as Assistant Carriage Examiner at Rutlam in the employment of the same department and that he was summarily dismissed from service in that year? If so, what was the cause of his dismissal and why was he re-employed in violation of the rules prohibiting the re-employment of a dismissed employee?

Mr. P. R. Rau: Government have no information.

Maulvi Muhammad Shafee Daoodi: Could they not make an inquiry and give us the facts?

Mr. P. R. Rau: The matter is one which the Agent is competent to decide, and since it is a Company-managed Railway, even an appeal does not lie to the Railway Board.

Maulvi Muhammad Shafee Daoodi: If a specific instance is alleged on the floor of this House, would not Government take the trouble of inquiring into it?

Mr. P. R. Rau: No, Sir; because, as I have explained, this question relates to a Company-managed Railway, the employees of which are not under the control of the Railway Board.

Dr. Ziauddin Ahmad: Is it not a fact that the Court of Inquiry instituted by the Government of India considered cases of the Company-managed Railways as well?

Mr. P. R. Rau: They considered such cases as their inquiry was into a dispute between employers and employees.

Maulvi Muhammad Shafee Daoodi: If a breach of rule of this kind is brought to the notice of the railway authorities, is it not reasonable to expect that they would ask the Agent of the Company-managed Railway to look into it?

Mr. P. R. Rau: The rule must be one that has been laid down by the Company itself and it is for the Company or the Agent as its representative to decide whether there has been a breach or not.

Maulvi Muhammad Shafee Daoodi: Do Government consider that the ground given in this question is really a serious breach of the rules?

Mr. P. R. Rau: No, Sir; this matter does not seem to me to be of any great importance.

Dr. Ziauddin Ahmad: Is it not a fact that the South Indian Railway is a Company-managed Railway, and, if so, why Government interfere in its affairs?

Mr. P. R. Rau: May I know what particular interference the Honourable Member is referring to?

Dr. Ziauddin Ahmad: The instance which the Chief Commissioner has gone to examine.

Mr. P. R. Rau: The Chief Commissioner has not gone to examine anything on the South Indian Railway.

DEVELOPMENT OF LEGITIMATE TRADE UNION PRINCIPLES AND PRACTICES AMONG THE EMPLOYEES OF THE BOMBAY, BARODA AND CENTRAL INDIA RAILWAY CARRIAGE AND WAGON SHOPS, AJMER.

1108. ***Maulvi Muhammad Shafee Daoodi:** (a) Will Government state whether they are aware that the European officers of the Bombay, Baroda and Central India Railway Carriage and Wagon Shops, Ajmer, victimise such subordinate employees of the said shops as are active workers of the Railway Employees' Union?

(b) Will Government inquire and state whether a clerk of the time office of the said shop, who is an enthusiastic office-bearer of the local branch of the Railway Employees' Union, was given repeated warnings that his services would be dispensed with if he did not improve, the mistake committed by the said clerk being an error of one pie in calculation in October, 1930, whereas two muster clerks of the time office of the said shop, who made a mistake of Rs. 100 in pay account of the charginan of the Department No. 26 of the said shop on the 21st August, 1931, were not given any warning at all?

(c) If the facts stated in parts (a) and (b) are correct, what steps do Government propose to take to safeguard the development of legitimate trade union principles and practices among the employees of workshops of the said Railway?

Mr. P. R. Rau: (a) The Agent of the railway reports that this is not correct.

(b) I have been informed by the Agent that only one clerk in the Time Office has had warnings consequent on continued bad work prior to the formation and recognition of the local Union.

(c) Does not arise.

Mr. S. G. Jog: Is the Honourable Member aware that there is a general impression among these Union people that its active workers are generally victimised or attempts are made to find fault with them and punish them seriously? Is there not such a general impression among the Indian workers?

Mr. P. R. Rau: I am not aware of that, but I should like to know whether there are any facts in the possession of the Honourable Member to support that general impression.

Maulvi Muhammad Shafee Daoodi: Is the discrimination mentioned in this question a desirable one?

Mr. P. R. Rau: That is a matter of opinion.

LOSS INCURRED IN THE WORKING OF THE INDIAN STORES DEPARTMENT.

1104. ***Maulvi Muhammad Shafee Daoodi:** (a) Will Government please state whether the rent of the office building in New Delhi has been taken into account in determining the loss incurred in the working of the Indian Stores Department?

(b) What volume of business would be necessary to make the Indian Stores Department pay?

The Honourable Sir Frank Noyce: (a) The Indian Stores Department is a non-commercial department and no rent is charged to such departments for Government buildings used as offices.

(b) The Stores Department is a service department and as it does not charge other non-commercial departments of Government of India for its services, an increase of orders from these departments would not increase its income and might enhance its expenditure. The amount of business which would have to be received from other sources in order to make the income from the commission charged equivalent to the costs incurred would depend on the rate at which the commission was fixed.

Mr. B. Das: Is it not a fact that if the recommendations of the Indian Stores Retrenchment Committee were given effect to, the volume of business that will pass to the Indian Stores Department will increase enormously and there will be a great saving to the Government of India?

The Honourable Sir Frank Noyce: That is so; those recommendations are under our careful examination.

PROFITS SHEWN BY THE METALLURGICAL INSPECTOR AND THE CALCUTTA CIRCLE.

1105. ***Maulvi Muhammad Shafee Daoodi:** Is it not a fact that the Metallurgical Inspector and the Calcutta Circle have invariably shewn a profit? What has been done with these profits?

The Honourable Sir Frank Noyce: The answer to the first part of the question is in the negative. As regards the second part, profits and losses are shown only in the pro-forma profit and loss account. The actual receipts of these organisations are credited to Government.

JUNIOR OFFICER FOR THE ADMINISTRATIVE HEAD OF THE INDIAN STORES DEPARTMENT.

1106. ***Maulvi Muhammad Shafee Daoodi:** (a) Is it a fact that the Retrenchment Committee held that the administrative head of the Indian Stores Department needs one junior officer only on Rs. 500—700 with a duty allowance of Rs. 200 of recognised experience?

(b) Is it a fact that Mr. T. Ryan, when acting as Chief Controller of Stores, held that the administrative officer, if head of a department, would only need an officer of about the status of an Assistant Secretary on the establishment side?

The Honourable Sir Frank Noyce: (a) No.

(b) Government have no information.

CHARACTER ROLLS FOR THE NON-GAZETTED CLERICAL STAFF OF THE INDIAN STORES DEPARTMENT.

1107. ***Maulvi Muhammad Shafee Daoodi:** (a) Is it a fact that character rolls are maintained for the non-gazetted clerical staff of the Indian Stores Department?

(b) Is it a fact that these rolls are not shewn to the persons annually as is the practice in the Department of Industries and Labour? If so, why is there a different practice in a subordinate office?

(c) Are Government aware that officers make insinuations in the character rolls of the clerks in the Indian Stores Department and that the person concerned has no access to it in order to clear up matters? Are Government prepared to issue instructions that the same procedure is followed in the Indian Stores Department as is done in the Industries and Labour Department?

The Honourable Sir Frank Noyce: (a) Yes.

(b) Yes. The practice in the Department of Industries and Labour was altered some years ago to bring it into line with the practice in other departments of the Secretariat; so far as the Stores Department is concerned, the practice is regulated by the orders of the Chief Controller, with whose discretion Government do not propose to interfere.

(c) Officers are required to make comments on the work of those serving under them, but if any adverse remarks are made relating to defects which can be remedied, these remarks are communicated to the persons concerned. The answer to the last part of the question is in the negative.

FURTHER RETRENCHMENT IN THE INDIAN STORES DEPARTMENT.

1108. ***Maulvi Muhammad Shafee Daoodi:** Are Government contemplating some further retrenchment in the Indian Stores Department? If so, are all men, who have rendered thirty years service, to be compulsorily retired?

The Honourable Sir Frank Noyce: Government have no proposals for further retrenchment in the Indian Stores Department under examination other than those put forward by the Stores, Printing and Stationery Subcommittee of the Retrenchment Advisory Committee. These do not include a proposal of the kind suggested by the Honourable Member.

STATEMENTS LAID ON THE TABLE.

The Honourable Mr. H. G. Halg (Home Member): Sir, I lay on the table the information promised in reply to starred questions Nos. 504 and 505 asked by Mr. B. Das on the 20th September, 1932.

SEARCH BY POLICE OF A HINDUSTAN TIMES REPORTER.

*504. (a) Mr. Chaman Lal was searched under the orders of the Senior Superintendent of Police, Delhi, as there was reason to believe that he was in possession of literature intended to be published in the *Congress Bulletin*, which is an unauthorised news sheet, and also that he was himself concerned in the publication of that bulletin.

(b) The search was carried out in connection with section 18 of the Press Act.

(c) The Honourable Member's assumption that Mr. Chaman Lal was searched in his capacity as a reporter of the *Hindustan Times* is not correct. Mr. Chaman Lal was searched for the reasons given in (a) above.

SEARCH BY POLICE OF A HINDUSTAN TIMES REPORTER.

*505. (a) The police were aware of this.

(b) No.

(c) The suggestion of the Honourable Member that the reporter's interview was confiscated is not correct. The police did not take any documents from Mr. Chaman Lal.

Mr. H. A. F. Metcalfe (Foreign Secretary): Sir, I lay on the table the information promised in reply to unstarred question No. 56, asked by Khan Bahadur Haji Wajihuddin on the 19th September, 1932.

PRIVATE HOUSES BUILT IN MUSLIM GRAVE YARDS IN AJMER.

56. (a) Yes, so far as part 1 of the question is concerned. No gross negligence in the matter can be attributed to the Municipal Board as some constructions were made without permission.

(b) The area demarcated as grave-yards in 1929 was found, on enquiry undertaken on the objections of some persons, to include some plots which were not grave-yards, hence a Special Sub-Committee has been appointed consisting of Muhammadan members to go into the question.

(c) ~~These~~ resolutions only were passed.

(d) Yes. It is a fact that none of the resolutions was actually complied with. They could not be complied with as they were resolutions of the Public Works Sub-Committee and under the rules required confirmation by the General Committee, which then came up before the General Committee after the Special Sub-Committee referred to in (b) above was formed.

(e) No.

(f) Yes.

(1890)

It has been reopened for the following reasons:—

- (1) An enquiry showed that some parcels of land have been wrongly included in the demarcated area of the graveyard.
- (2) Some vendors invited the attention of the Committee to the need to see whether the constructions applied for satisfied sanitary requirements. On this complaint, the advice of the Civil Surgeon, Ajmer-Merwara, was sought and he, after consulting the Public Health Commissioner with the Government of India, expressed the opinion that dwelling houses might be built on dis-used grave-yards after 20-25 years.
- (3) In a recent civil suit in which the Ajmer Municipal Committee ordered the removal of Kilns set upon land near a grave-yard the Court decided that the Committee was not justified in ordering the removal of the Kilns on religious, apart from sanitary grounds.

The Commissioner, Ajmer-Merwara, in his letter No. 7082/XI-75 of 1932, dated the 10th May, 1932, suggested to the Municipal Committee that they should:

- (i) frame revised bye-laws under Section 245 (c) (v) of the Ajmer-Merwara Municipalities Regulation VI of 1925;
- (ii) institute a suit against Kadir Bux to restrain him from selling portions of the grave-yard; and
- (iii) institute proceedings under Section 133-Criminal Procedure Code if the unauthorised buildings could be regarded as an obstruction in a public place. It was, however, also suggested that before taking such action the Committee would be well advised to obtain competent legal opinion on the point whether this Section was applicable to a case of that nature.

(g) A copy of Col. Howson's letter referred to is laid on the table.

(h) No heart burning among the Muslim public exists. Some of the grave-yards in Ajmer are public and some private, belonging either to individual families or to particular communities. Public grave-yards are provided by the Committee, and on them no buildings have been allowed. The owners of some of the private grave-yards have sold parts of the land and the purchasers claim the right to build provided there is no objection from the sanitary point of view.

In all cases both the vendors and the vendees are Mohammadans.

Some of the persons who purchased land in the beginning and built on it have subsequently made unsuccessful attempts to acquire more land. The heart burning is confined to this section.

(i) In view of what has been stated in the reply above, Government do not propose to take any action in the matter.

Copy of letter No. W.-116, dated the 8th April 1933, from Lt.-Col. G. Howson, C.I.E., M.C., Chairman, Municipal Committee, Ajmer, to the Commissioner, Ajmer-Merwara, Ajmer.

I have the honour to draw your attention to the question of the demarcated grave-yard area known as the Chand Bhowari grave-yard.

As you are aware this matter has already been a subject of question in the Legislative Assembly, vide your No. 3956/XXVIII-112-II, dated the 11th March 1932.

The area in question was definitely approved of as a demarcated grave-yard and it was registered as a grave-yard by the Chief Commissioner's letter No. 8365 of 31st March 1898.

Owing to various reasons this decision which appears to me to be final was reopened and on 16th October 1930 an application was submitted for the redelimitation of this area.

The matter has now reached the stage of being a public scandal and in my opinion it has resulted in the complete defiance of Municipal law.

I am, therefore, reporting the matter to you. The faquir who is normally in charge of this grave-yard by name Kadir Bux son of Ilahi Bux has sold various portions of the land at nominal rates for building purposes.

In no single instance has the permission of the Municipal Committee been obtained for any buildings on this site. Seven applications have been made and have been refused.

As reported in my reply to your letter of 11th March 1932, a very considerable number of buildings have been erected without permission. I have been into the question and have not been able to find a solution. If the Executive Officer takes action under Regulation 49 he may find himself in difficulties.

The matter is one that calls for early and drastic action.

With effect from April 1, all lime-kilns in this area ceased to be licensed. This may have some effect on the restriction of building.

The assistance of the police will undoubtedly be required to stop these lime-kilns from being used after April 1st.

I should be most grateful for your advice and assistance in this matter.

It appears to me that if the area is definitely a demarcated grave-yard no building on the land and no sale of the land for building purposes can be allowed.

If on the other hand the limits laid down for the grave-yard are inaccurate the Municipal Committee should be able to carry out certain town planning schemes in the area to ensure sanitary facilities for the future.

As things are at present no injunction of any Court has been given and Municipal law has ceased to function in this area.

Mr. G. R. F. Tottenham (Army Secretary): Sir, I lay on the table the information promised in reply to unstarred question No. 112 asked by Sirdar Sohan Singh on the 27th September, 1932.

SEGREGATION OF PATIENTS SUFFERING FROM INFECTIOUS DISEASES IN CANTONMENTS.

112. (b) Kunwar Sardar Singh, grand nephew of Bijay Bahadur Singh, was suffering from small-pox and was segregated in the Cantonment segregation huts. He was not forcibly removed; in fact he expressed his willingness to live in the small-pox huts. Segregation arrangements could not be made in his own house as his grand uncle had gone away and there was no one to look after him. This was the first case of small-pox in the cantonment and it occurred in a house situated in the middle of the bazar.

(c) The segregation huts in the cantonment are maintained in a sanitary condition. They are necessarily lonely, being situated on a mound about 100 yards away from the nearest dwelling.

(d) After the boy had been isolated for 5 days his grand-uncle asked for, and was granted, permission to remove him to an isolated place about 2 miles outside the cantonment, on condition that the boy did not return to his own house in the cantonment until the scabs had fallen and he was certified free from infection.

(e) The policy of Government is to prevent the spread of infectious or contagious diseases. The segregation arrangements are left to the discretion of the Medical Officer or Health Officer, due consideration being given to the circumstances and environments of the person concerned.

(f) Because it was not possible. There was no responsible person living in the house and the boy, before his removal to the segregation huts, insisted on going out of doors and mixing with others. Moreover, the house was in the middle of the bazar.

(g) The result of the enquiry is given above. There was no forced segregation and no further action is required.

Mr. P. R. Rau (Financial Commissioner, Railways): Sir, I lay on the table:

- (i) the information promised in reply to starred question No. 598 asked by Mr. A. H. Ghuznavi on the 22nd September, 1932;
- (ii) the information promised in reply to part (a) of starred question No. 785 asked by Khan Bahadur Haji Wajihuddin on the 26th September, 1932;
- (iii) the information promised in reply to part (e) of starred question No. 550 asked by Mr. Md. Anwar-ul-Azim on the 21st September, 1932;
- (iv) the information promised in reply to unstarred question No. 90 asked by Mr. Gaya Prasad Singh on the 27th September, 1932;
- (v) the information promised in reply to part (a) (vi) of starred question No. 646 asked by Mr. K. P. Thampan on the 22nd September, 1932; and
- (vi) the information promised in reply to unstarred question No. 129 asked by Sir Zulfikar Ali Khan on the 27th September, 1932.

SUCCESSFUL TENDERERS FOR COAL PURCHASED FOR CERTAIN RAILWAYS, ETC., *598.

Name of firm with whom order placed.	Colliery and seam.	Quantity accepted. Tons.	Rate per ton.
<i>Army Department.</i>			
Turner Morrison & Co.	Lodna 14, 14A and 15	47,000	Rs. 4 12 0 f. o. r.
	Lodna Rubble coal $\frac{1}{2}$ " to $1\frac{1}{2}$ " mechanically screened 50 per cent. from Lodna and 50 per cent. from Sirpore Ninga.	18,000	3 8 0 Do. colliery.
Bengal Iron Co.	Noonodih Jitpur 17 & 18	21,000	4 4 0 Do.
Shaw Wallace & Co.	Burhar	2,000	4 8 0 Do.
Andrew Yule & Co.	Doshergur	2,000	4 12 0 Do.
Anderson Wright & Co.	Dhori Smithy Coal $\frac{1}{2}$ " to $1\frac{1}{2}$ " Kargali seam	1,000	3 12 0 Do.
Jardine Skinner & Co.	Bararee hard foundry coke	724	9 0 0 f. o. r. coke works.
Singareni Collieries Co.	Singareni	870	5 8 0 f. o. r. colliery.
Bird & Co.	Deshergur rammed soft coke.	50	15 0 0 Do.
Mackinnon Mackenzie & Co.	Bhowra hard coke Rubble No. 1.	240	11 0 0 f. o. r. colliery.
<i>Royal Indian Marine.</i>			
N. R. Nazir & Sons	(i) Best Desherghur selected from the Parbelia Colliery, supported by a certificate from the Indian Coal Grading Board.	About 6,500 tons.	(i) Rs. 15-8-0 (T. I. B.) or delivered into the R. I. M. Dockyard.
	(ii) "Special steam coal", a mixture, half of above and half Welsh.		(ii) Rs. 19-0-0 (T. I. B.) or delivered into the R. I. M. Dockyard.

COMMUNAL COMPOSITION OF THE INSPECTORS OF VARIOUS BRANCHES ON THE EAST INDIAN RAILWAY.

*785. (a) The number of Inspectors in the various branches of the East Indian Railway is as follows :—

Operating Department	379
Engineering Department	486
Mechanical Department	21
Accounts Department	37
Colliery Department	10
Commercial Department	65
Electrical Department	1
Watch & Ward Department	10

MEMORANDUM RE POSITION OF MINORITIES IN THE RAILWAY SERVICES IN INDIA.

*550. (c) The Eastern Bengal Railway has adopted the practice of advertising vacancies in the local papers except in the case of inferior and labour staff who are generally illiterate.

The Assam Bengal Railway has not adopted the practice as yet. The Agent explains that since the issue of the Railway Board's memorandum there have been very few vacancies and these have either remained unfilled, or been filled by surplus men transferred from other departments or sections of the line, or by those who had previous permanent or temporary service, or by probationers under training.

SURPLUS STORES LOCKED UP ON STATE RAILWAYS, ETC.

90. (a) and (b). Statements A and B attached contain the information required.

(c) Yes.

(d) Every endeavour is being made to reduce the balances of surplus stores. An officer on special duty was appointed in 1930 to secure co-ordination between principal railways in the utilisation of surplus stores. Lists are periodically circulated by and between railways showing items surplus on each railway and available for transfer to railways requiring such material. In the construction of new rolling stock for railways in India such surplus parts and fittings as are available on the railways are supplied to the wagon builders. The majority of the surplus stocks of stores on railways represent bridge materials, engineering plant and permanent way material, which have been released from construction projects and open line renewal programmes and for which use is difficult to find due to curtailment of all "Works" necessitated by the present financial stringency. Efforts are being made to utilise surplus broad gauge permanent way material in metre gauge renewal programmes and the whole subject is constantly engaging the special attention of the Railway Board.

(A)

Statement showing Balance of Surplus Stores at the close of 1929-30, 1930-31 and 1931-32.

(Figures in lakhs of rupees.)

Railways.	31st March 1930.	31st March 1931.	31st March 1932.	Remarks.
<i>State-managed.</i>				
Burma	0.58	1.35	7.61	
E. B.	6.09	4.21	6.95	
E. I.	26.64	60.14	81.69	
G. I. P.	26.35	46.65	25.71	
N. W.	34.69	15.71	16.60	
Totals	94.35	128.06	138.56	
<i>Company-managed.</i>				
A. B.	0.23	0.12	0.32	
B. & N. W.	0.61	4.86	9.40	
B. N.	9.90	6.77	5.61	
B., B. & C. I.	6.39	9.06	11.09	
M. & S. M.	0.37	0.31	0.63	
R. & K.	0.17	0.13	0.12	
S. I.	1.21	2.49	5.60	
Totals	18.94	23.74	32.77	

(B)

Statement showing amounts written off on State-managed Railways due to scrapping of Surplus materials during 1929-30, 1930-31 and 1931-32.

Railway.	Amount written off during			Remarks.
	1929-30.	1930-31.	1931-32.	
N. W. Ry.	7,00,000*	6,50,000	2,00,000*	*These figures represent amounts written off on account of surplus as well as obsolete stores. Materials are generally offered to other Railways before scrapping.
E. I. Ry.	†	†	6,78,307	†Information not available as separate records of surplus stores were not maintained in these years.
E. B. Ry.	1,84,709	1,60,661	1,75,330	All important items are circulated to other railways before scrapping.
G. I. P.	53,207	39,933	2,56,677	
Burma	6,584	750	8,164	Owing to geographical position enquiries are made from other Railways only when considerable amounts are involved.

MERCANTILE COUPON TICKETS ON RAILWAYS.

*646. (a) (vi) Number of mileage coupon books issued on the South Indian Railway.

	1st Class.	2nd Class.
August 1931	7	21
September 1931	4	7
October 1931	1	6
Total	12	34

COMMUNAL COMPOSITION OF SKILLED AND UNSKILLED LABOUR RETRENCHED FROM THE NORTH WESTERN RAILWAY ELECTRICAL BRANCH.

129.

North Western Railway Electrical Branch.

	Hindu.	Muslim.	Sikh.	Indian Christian.
(a)				
(i) Number of skilled labour retrenched since March 1931.	23	62	11	..
(ii) Number of unskilled labour retrenched since March 1931.	13	22	5	1
(b)				
(i) Number of skilled labour re-engaged from retrenched staff.	8	22	2	..
(ii) Number of unskilled labour re-engaged from retrenched staff.	6	13	2	..
(c)				
(i) Number of skilled labour retrenched with 3 or over 3 years service.	17	55	11	..
(ii) Number of unskilled labour retrenched with 3 or over 3 years service.	2	5	1	..
(iii) Number of skilled labour retained with less than one year's service.	9	1	1	..
(iv) Number of unskilled labour retained with less than one year's service.	13	10	9	1

RESOLUTION RE TRADE AGREEMENT SIGNED AT OTTAWA.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Further consideration of the Resolution on the Ottawa Agreement.

Mr. E. K. Shanmukham Chetty (Salem and Coimbatore cum North Arcot; Non-Muhammadan Rural): Sir, in recent years no subject has evoked in this country so much criticism and controversy as the Ottawa Conference and the part played by the Indian Delegation in that Conference. I find, Sir, as a result of the perusal of the great volume of criticism levelled against the Indo-British Trade Agreement that there are, in the minds of a certain section of the public, at any rate, some

genuine misapprehensions and misconceptions with regard to the part played by the Indian Delegation at Ottawa. I propose to do something today to remove those misapprehensions and misconceptions. I propose, in the first instance, to give what I might call the historical background under which the Indian Delegation had to work at Ottawa. I shall then attempt to explain the aims and principles which the Indian Delegation kept in the forefront in dealing with the whole question that was raised at Ottawa. Thirdly, I shall try to give what I consider to be the economic value of the Indo-British Trade Agreement; and, lastly, I shall conclude by giving my answers to some at least of the major criticisms that have been levelled against the Agreement.

I spoke of the historical background under which we worked. Ever since the question of Imperial Preference was mooted as a result of the tariff reform controversy started by the late Joseph Chamberlain, the Government of India, from the year 1903 down to the year 1930, have always maintained that India cannot participate in any general scheme of Imperial Preference; and, in this declaration of policy, the Government of India had the whole-hearted support of the Indian public. The last time when this question was raised, was in the Imperial Conference of 1930, and, even in that Conference, Sir Geoffrey Corbett, who was the spokesman of the Government of India, declared in no uncertain terms that in view of the policy of discriminating protection to which the Government of India was committed, India could not subscribe to a general policy of Imperial Preference, but that the Government of India were prepared to consider the merits of particular cases as and when they arose. Now, Sir, the Indian Delegation at Ottawa has been accused of having committed India to a policy of Imperial Preference. But I maintain that we have not departed in the least from the announcement of the attitude of the Government of India as was made by Sir Geoffrey Corbett in the year 1930; in other words, we have not committed India to a policy of Imperial Preference. I might go further and say that the policy of Imperial Preference today is as dead as Queen Anne. No

12 Noon. country of the British Commonwealth is committed to a policy of Imperial Preference. What is it that is generally understood by a policy of Imperial Preference? As it has always been understood, Imperial Preference has meant one of two things: either the adoption of a policy of free trade amongst Empire countries or the framing of the tariffs of the Empire countries on a two-decker basis with one rate of tariffs for Empire goods and a higher rate of tariffs for foreign goods. That is what has always been meant and understood by Imperial Preference, and, in that sense, I maintain, no country of the British Commonwealth has committed itself to that principle, much less the Government of India or their Delegation. The question that was raised at Ottawa was whether, in view of the economic depression with which all of us were faced, in view of the advantage that the component parts of the British Commonwealth had, by virtue of membership, in one great community of nations, whether it was not possible on the basis of mutual and reciprocal tariff preferences to improve the trade of each of the component parts of the British Commonwealth. That was the question with which we were faced, and that was the problem we tried to solve and, in solving that problem, we have amply safeguarded the interests of India. What has been done at Ottawa, therefore, I maintain, is not the committing of any part of the Empire to the principle of Imperial Preference, but the inauguration of, what I may call, a regime of reciprocal

[Mr. R. K. Shanmukham Chetty.]

preferential tariffs with a view to improving the trade of the Empire countries and ultimately to improving the trade of the world.

That being the problem with which we were faced, what were the aims and principles that the Indian Delegation kept before itself in dealing with that problem? A great deal has been said about a remark contained in our report that it was no more a question of what India stood to gain but what India stood to lose. That remark of the Delegation has been misunderstood by the critics. That remark has been made not with a view to justifying the Agreement that we signed, but simply as a justification for the Government of India taking part in the Conference at Ottawa. (Cries of "Oh.") I do not justify the Agreement on the negative aspect of what we stood to lose. But I want the critics to understand that that dictum was laid down not with a view to justifying the Agreement, but with a view to justifying the participation of the Government of India at the Ottawa Conference. The aim which we kept in the forefront throughout the negotiations was the possibility of expanding India's export trade and, in cases where there was not the possibility of considerable expansion of trade, to do something to retain the valuable trade that we had in the United Kingdom. Retention of our trade in certain respects and expansion in other respects were the aim and object that we kept in our view during the whole course of our negotiations at Ottawa. Naturally in assessing the value of any preference that we might secure with a view either to retaining or expanding our trade, we had to keep before our minds certain essential principles. In cases like raw jute where we have a monopoly, preference is of no value; and let me tell my Honourable friends here that no preference has been secured on raw jute under the Agreement. I have heard it stated repeatedly on the floor of this House and outside that preference has been obtained: preference has been obtained on jute

Mr. C. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): Will the Honourable Member state who said that preference has been given to our jute on the floor of this House?

Mr. R. K. Shanmukham Chetty: It has been stated by the Honourable gentleman himself. (Laughter.)

Mr. C. S. Ranga Iyer: I have before me the speech as reported by the reporters, unedited by me, and in both the references I have made about jute, I said in one place articles of jute and in another place goods of jute; and if the Honourable gentleman has any doubt about it he may verify it. (Laughter from the Nationalist Benches.)

Mr. R. K. Shanmukham Chetty: I am very glad to have the assurance of my Honourable friend and I will take his assurance without reading his speech, that he at least was not under a misconception. It only goes to show that my Honourable friend, Mr. Ranga Iyer, is always careful in the statements that he makes and if I have misunderstood him I apologise.

Mr. Lalchand Navatral (Sind: Non-Muhammadan Rural): Who else made that statement on the floor of the House?

Mr. R. K. Shanmukham Chetty: I am not prepared to give way. Preference in the case of monopolies, therefore, are of no value. Secondly, we realised that where the Empire countries are our chief competitors in certain commodities, preference will enable us only to retain the volume of trade that we already possess. Thirdly, we realised that in commodities in which the competitors are both Empire and foreign countries, the preference will enable us to share the capturable trade with the Empire countries. Fourthly, we realised that where foreign countries are our chief competitors, preference will have the maximum value; and, lastly, we realised that in commodities in which there is a capturable market and in which there is a capacity for India to increase production, preference would be of very special value. These are the criteria which we had before us in assessing the value of preference; and when I come to assess what I consider to be the economic value of the Agreement, I shall try to prove how, judged by these dicta, the preferences that we have obtained are valuable preferences. Having these principles in view what we did was to persuade the British Government to the retention of preferences in the case of certain commodities on which we already enjoyed preference, to give us new preference in the case of certain other articles and to give us an increased preference in the case of a third class of articles; all these classes of articles are enumerated in the Schedules to the Agreement and also in the body of our Report which I most earnestly invite Honourable Members to read carefully. We got these preferences; and, as a business man, I knew well that I cannot get something in return for nothing. Naturally when we want to increase our export trade and ask for preference from the British Government, we must be prepared to give something in return; and the British Government wanted preferential treatment with regard to certain of their exports to India.

Diwan Bahadur T. Rangachariar (South Arcot cum Chingleput: Non-Muhammadan Rural): When did we want it?

Mr. R. K. Shanmukham Chetty: When did we want it? Facilities for export we have always wanted; I want it today; and if anybody says that we do not want facilities for the expansion of our export trade, well, I do not know how to answer him. I wanted at Ottawa opportunities to expand our export trade and I want opportunities today for the expansion of our export trade and I shall want always opportunities for the expansion of our export trade, whatever my Honourable friend may say.

In deciding upon the preferences that we might give, we were faced with rather serious problems. We had to keep certain very fundamental facts before our minds.

Firstly, we could not ignore the fact that the revenue from Customs was the most important source of revenue for the Government of India.

Secondly, we had to remember that we are committed to a policy of discriminating protection, that we have got ambitions of becoming one of the great industrial nations of the world, and we could not, therefore, agree to any preferential arrangement with regard to the industries which are protected in this country.

Thirdly, there are commodities which, it is to our national and industrial interest, to import free of duty or to purchase in the cheapest market, and in this category come agricultural implements and power machinery.

[Mr. R. K. Shanmukham Chetty.]

Having made up our mind that these were the vital considerations that we had to keep in view, we started negotiations with the British Government. I can say, Sir, with justifiable pride that in every one of these points we succeeded in keeping up to the very last the attitude that we took up in the beginning. (Applause from the European Benches.) With a view to safeguarding our revenue, we have incorporated provisions in the Agreement by which we guarantee to the British imports only a certain margin of preference, but no free entry, nor have we committed ourselves as to the exact manner in which that preference is to be guaranteed to the British goods. With regard to our protected industries, we did not yield one inch of ground to the British Delegation. On the other hand, I might say that though it took us some time and very considerable effort on our part to convince the British Delegation as to the justness of our cause, our pleading had such a tremendous success that in the end the British Government were forced to admit that not merely was our contention correct, but that India's protectionist policy was one that the other Dominions might well copy. (Applause from the European and Official Benches.) And if, today, you find in the British-Canadian Agreement provisions for the establishment of a Tariff Board, provisions to commit the Canadian Government to a policy of discriminating protection, it is because of the influence that the Indian Delegates had at Ottawa. I might tell the House that those principles of fiscal policy, which you, Sir, and your colleagues laid down in your memorable Report on the Fiscal Commission, have not only been maintained unimpaired by the Indian Delegates at Ottawa, but have been passed on for copy for the other Dominions of the Empire.

Mr. B. Das (Orissa Division: Non-Muhammedan): Question, question?

Diwan Bahadur T. Rangachariar: So you accept the principle?

Mr. R. K. Shanmukham Chetty: Subject to these reservations, we agreed to give a 7½ per cent preference on motor vehicles and a ten per cent preference on a miscellaneous class of articles imported into India. The total value of these articles, on which we have given preference and which are imported from the United Kingdom, comes to about 17½ million pounds.

I shall now come, Sir, to what I consider to be the economic value of the Agreement. If there are some friends like my friend, Mr. B. Das, who take the view that nothing should be done with regard to the improvement of the economic condition of India until free political institutions are established in this country, it is a point of view which I respect and to which I have no answer

Mr. B. Das: You misunderstood me. I said: "no agreement can be entered into".

Mr. R. K. Shanmukham Chetty: I am prepared to accept the modified statement. But if there are those who think that whatever might be our political status, we should not lose an opportunity of having a good bargain with any country in the world, then I would ask them to apply one and

only possible test in judging of the Agreement. The test that they should apply is this—how far would the preferences that we have obtained on Indian exports enable us to retain the trade in the market in which preference is given and will enable us to expand trade in certain commodities in that market, and on the preferences that we have given whether any commodity has been included which would detrimentally retard the industrial progress of India. This is the test, Sir, which, I maintain, is the proper test to be applied, and I will invite subsequent speakers to apply this test to the Agreement and give their verdict. In certain cases, I would frankly say, there is not much scope for expansion of our trade. It would only enable us to retain the existing trade. The commodity that comes to the forefront in this category is tea. The preference of two pence per pound that we have obtained for Indian tea would enable us to retain the British market that we already command. It has been mentioned, Sir, by some critics that even if this preference is withdrawn, we are not going to be seriously hurt, and a Professor of Economics has said that in any case the capacity of Ceylon and Java to increase their production is very limited and we need not, therefore, be afraid. Honourable Members here do not probably realise the history of the tea duty in England. At one stage the preference was about 2/3rds of a penny, and in 1929 even that preference was abolished, and it was only in April, 1932, that this preference of two pence per pound was granted to Indian tea. And what happened to Indian tea when this duty was abolished in 1929? I cannot do better than quote the opinion of the Imperial Economic Committee contained in their Report on Tea issued last year. They say:

"It is undoubtedly the case that from the time the preference in the United Kingdom was reduced in 1924 to two-thirds of a penny the imports of teas from Java in the United Kingdom definitely increased. Further, the year 1929, in which the duty was removed altogether, witnessed an exceptionally large increase in the net import of those teas—nearly 15 million lbs. an increase of practically 25 per cent. in one year."

Then they go on to say:

"As the tendency now is for the whole of the surplus export of Java and Sumatra tea to be thrown on the United Kingdom market, this expanding production in Sumatra threatens that market with a glut of low grade tea such as already experienced in 1929. Producers in the Empire—especially in India—therefore view the future with some alarm."

That was the considered verdict of an expert body like the Imperial Economic Committee in 1931 about the serious threat to the tea industry as a result of the withdrawal of even the little preference they enjoyed, and yet, in the face of this, a Professor would ask us to believe that we need not seriously be worried about the threatened loss even if this preference is withdrawn. What amused me most, Sir, is the remark of this Professor that in any case the capacity of Java and Ceylon to increase their production is very limited. I would only ask this Professor to be up-to-date and read at least the newspapers if not books on economics. If really the position regarding the productive capacity of Ceylon and Java is as enunciated by this gentleman, may I ask what was the reason for all the tea producing countries of the world recently to come to an Agreement to have a voluntary restriction on production to the extent of 15 per cent? In spite of the preference that Ceylon and India enjoy, the competition of Java tea is so great that even the Ceylonese and the Indian producers were compelled to join this Agreement for restricting production to the extent of 15 per cent? On an examination of the

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question, therefore, I have not the slightest doubt in my mind that if this preference were withdrawn from Indian tea and if, in addition, preference were given to Ceylon tea, the result would be that Ceylon would capture the British market to the entire capacity of her maximum production and, further, our trade will seriously suffer as a result of the very serious competition of Java and Sumatra.

I, therefore, maintain that the preference granted on tea is one that is essential for us if we are to retain the market that we have. But I do not forget the familiar argument that, after all, the tea industry in India is in the hands of British capitalists. I am fully aware of that fact, but, as a student of economics, as a public man, as one who is interested in the economic development of the country, when I am faced with a situation of that nature, I can only apply certain tests with a view to determining what the economic value of the tea industry of India is today. I am prepared to gloat with some of my friends over the threatened extinction of the British capitalist in India. But what would be the economic consequences to India? The Honourable the Commerce Member said that Rs. 8½ crores of Indian capital is invested in Indian tea gardens. That figure, I may tell you, applies only to the tea gardens in Northern India and not in South India. If you include the figures for South India, you might, at a conservative estimate, say that about rupees five crores of Indian capital is invested in the Indian tea gardens. But even that is a misleading figure. Rupees five crores is the actual paid up capital and it does not represent the actual amount of money invested in the tea gardens, because many of the Indian tea gardens have re-invested their earnings in the gardens themselves. Therefore, if you were to take an accurate statistics of the amount of Indian capital invested in the tea industry in India, you will find that it is of an appreciable amount, and by itself that would require to be protected.

Diwan Bahadur T. Rangachariar: Where do you get it?

Mr. R. K. Shanmukham Chetty: I cannot be telling you all the sources of my information.

Diwan Bahadur T. Rangachariar: But where are those tea gardens?

Mr. R. K. Shanmukham Chetty: In South India. I would ask my Honourable friend to go to Wyanad and certain parts of Malabar and Travancore.

Diwan Bahadur T. Rangachariar: The Indian capital is rupees five crores in South India?

Mr. R. K. Shanmukham Chetty: I did not say rupees five crores for South India, but rupees five crores for the whole of India. I cannot forget that apart from the great interest that Indian capital has got in this industry, over million people are employed in the tea gardens of India. Nor can I forget that the financial solvency of Assam and Bengal depends upon the prosperity of the tea industry, and, to some extent, the finances of Madras also would be affected. And, whatever satisfaction it might give me to see the British capitalist go down, I was not prepared to contemplate with equanimity the wiping out of this enormous amount of Indian capital from this industry, the throwing out of all these labourers

from the tea gardens, and the financial breakdown of two of the provinces. Even though the tea industry is essentially manned by British capital, I am not prepared to cut my nose to spite the Britisher's face.

In the case of tea, this preference would enable us to retain the volume of trade that we already possess, but, in certain other commodities, I am prepared to prove that the preference that we have obtained would enable us to expand our trade in the British market. My Honourable friend, the Commerce Member, gave the instance of linseed. My Honourable friend, Dr. DeSouza, gave the instance of coffee. I shall only give two instances. I shall give the instance of vegetable oils. The value of our export trade to the United Kingdom in 1929 was £89,000, but the United Kingdom imports 241,000 tons of oil of the value of £9 millions, and today we have got only about one per cent. of that United Kingdom trade. Three per cent. of that trade is in the hands of Ceylon and, for the rest, 96 per cent. is in the hands of foreigners. Here is a British market of the value of £9 millions, of which the Empire countries have got only four per cent., and the preference that we obtain is 15 per cent. I put it, whether, on the face of these facts, one should not come to the honest conclusion that, with this preference of 15 per cent., there is a considerable scope for the expansion of our oil trade in the British market. The only possible factor, that might diminish its value, is our capacity to increase the production of oil seeds, and I would ask whether we have not an almost unlimited capacity to increase our oil seeds cultivation in India, and when that happens, what will be the ultimate economic value to India of this preference? Not only would our primary producers be benefited, but the oil crushing industry would be established in this country and we would retain in this country the oil cake so much needed for manure and for fodder. Or take the case of rice which is not very important, and yet important in a sense. The preference that we have got is a penny a lb., which is very nearly 50 per cent. *ad valorem*, and what is the position? The United Kingdom takes 123,000 tons of rice of the value of very nearly £2 millions. India supplies only 26 per cent. and the foreigners supply 74 per cent. I ask, is it not open for one looking at these figures, knowing the exportable surplus of rice in India, knowing that this preference is 50 per cent. *ad valorem*, knowing that our chief competitors are foreign countries—is it not open to one to say that we can capture the British market in rice? That is the only honest conclusion to which I can come by going through these figures. I may take other figures, but the time at my disposal would not permit me to examine every one of these items and to prove that, in a great many of these, there is an immense possibility for the expansion of our trade in the British market.

The preferences, I, therefore, maintain, must ordinarily result in an expansion of our trade and not in a diversion of our trade from foreign countries. I really fail to understand the logic of the Professor who says that what will result is only a diversion of trade. Diversion of trade will result if our capacity to increase is limited, but in almost every one of these articles on which we have got a preference, our capacity to increase production depends only on the demand that we can create in the outside markets. That is the only limit, and, subject to that limit, our capacity to increase production is very great. I, therefore, maintain that under normal circumstances we can reasonably anticipate an expansion of trade in those primary products which are so essential to

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the welfare of the masses and the agriculturists for whom tears have been frequently shed in this House.

If you take the other side, namely, the imports, I am yet to know on what particular commodity the preference will act as a detriment to India's industries about which I hear in these criticisms. No doubt some of the industries that are thriving on the revenue tariff might be affected, but when the Bill comes on, it is open to Honourable Members to suggest that in the case of those industries the existing level of duty might be retained and the duty on the foreigner might be increased by ten per cent. I fail to understand how the preferences that we have agreed to will ruin India's industries. (Mr. C. S. Ranga Iyer: "What about aluminium?") I do not know about aluminium; I would like to hear about it at a later stage. But if the only effect of this Agreement is to crush the aluminium industry of India, I am prepared to subscribe to this Agreement.

Sir, I maintain that if the critics want to prove that it is a bad bargain, then it is up to them to show in what respect the preferences that we have obtained are valueless, in what respects we should have obtained more preferences, and in what commodities we ought not to have given preference to the British. Those are the points in which I would like to have constructive suggestions. After all, it may be that I and my colleagues committed a grave error of judgment at Ottawa; we are not infallible; but I have been waiting and waiting, ever since the Report was published, to have some light beyond generalisations.

The only commodity on which we have not been able to obtain preference and which is of great value to us is cotton. In that I want to make the position clear. The United Kingdom takes about 600,000 tons of cotton per year and we supply only 7½ per cent. of this demand. Before we could insist upon Britain taxing raw cotton to our benefit, we must be honestly satisfied that we can supply the kind of cotton that England wants, because you cannot ask a country to tax a commodity which you have not got to supply to them. What England wants primarily is medium and long staple cotton and those who know the Indian textile industry and the progress made in Indian cotton cultivation realise that even to meet our own requirements for home consumption we have still to import about 600,000 bales of medium and long staple cotton for our Indian mills. In view of this, how could we press for the imposition of a duty on foreign cotton in England. We also realised that there is considerable scope in England for the greater use of Indian cotton. The Lancashire spinners complained to us that, in spite of their anxiety to buy Indian cotton, the marketing conditions at Liverpool of Indian cotton were very unsatisfactory. We were able to persuade the British Government to agree to co-operate with the Indian Government in doing something with a view to having better marketing facilities for Indian cotton at Liverpool and to enabling Lancashire to use a little more of India's cotton. Beyond that it was not possible for us to do anything more and it would not have been possible for even Professor Vakil to have done anything more if he had gone to Ottawa.

Sir, I shall now come to some of the critics. I would take the criticism of the Federation of Indian Chambers of Commerce, because this is the body which is supposed to represent Indian commercial opinion or which has taken upon itself the task of representing Indian commercial opinion. I find there is, first of all, an abuse of the personnel of the Delegation.

They say that the Delegates do not represent Indian commerce. Well, Sir, I never in my dream aspired to compete with the Executive Committee of this Federation for the honour of being the representative of India's commercial interests. That task can be fulfilled only by those gentlemen that control that Federation today. The Executive Committee of this Federation, Sir, is today controlled by a clique of super-patriots who have so far identified themselves with the interests of India, and that their own personal interests and India's interests have become synonymous terms. (Laughter.) Naturally these super-patriots, when they examine a Trade Agreement of this nature, would apply a criterion with which they are familiar; that criterion is, how it was going to benefit them personally. Having found that there is nothing here to benefit them personally, these honest brokers have naturally come to the conclusion that India cannot be benefited, because the interests of India and their personal interests are the same. I do not, therefore, propose to compete with these gentlemen for the honour of representing the Indian commercial community. Here I must thank my colleagues in this House who, for the last two days, have treated me and my colleagues on the Delegation with courtesy and dignity, though they differed violently from our conclusions and from what we did at Ottawa. Leaving the personal aspect, the Federation says: "The figures given in the brochure of Professor Vakil do not appear to be at variance with those given by the Delegation and they have not yet been challenged either by the Government of India or by the Delegation". This means that anybody who wants to reply to the Federation must reply to Professor Vakil and incidentally their greatest reliance on Professor Vakil is due to the fact that Professor Vakil has said something which has not been contradicted by the Government of India or by the Delegates. If, therefore, Professor Vakil says that the population of India is 750 millions and the Government of India do not issue a Communiqué contradicting it, the Federation of Indian Chambers of Commerce and Industry will assume that the population of India is 750 millions. (Laughter.) Now, Sir, let us take this learned Professor's brochure. In his introductory preface, he says: "Such a study is, however, generally avoided, because of the bewildering mass of statistics involved in the same". I find, Sir, in every page that bewilderment has haunted the author of this brochure. Let us take the summary of his conclusions and try to find out on what data and on what arguments they are based. He says: "The determining factor in the proposed Agreement is the need of the United Kingdom for a larger market in India". Well, Sir, the determining factor in this Agreement is the desire of all the British Empire countries to expand Inter-Empire trade. The Ottawa Conference was not convened at the instance of the British Government, but because every member of the British Commonwealth wanted the Ottawa Conference. The Professor says:

"That India may lose, on a liberal estimate, a market of eight crores in the United Kingdom by non-acceptance of the Agreement. That this is only 2.6 per cent. of our total exports and, in view of our strong position in the world market, we shall not find it difficult to find markets for these goods."

The learned Professor has not told us how it is that we can find the markets for these goods if we were ousted from the British market. Apart from that, the Professor estimates that the possible loss to India by the non-acceptance of the Agreement will be eight crores. Well, he does not give detailed figures, but he gives certain indications of the line that

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he took in arriving at these figures. Take, for example, linseed. He says:

"So far as the shrinkage in trade in linseed, pig iron and cotton, by the non-acceptance of the Agreement is concerned, we estimate the same percentage, as in other cases, namely, a reduction of 25 per cent."

It is an *obiter dictum* of the Professor, but unfortunately the trade figures are against the Professor.

Mr. B. Sitaramaraju (Ganjam cum Vizagapatam: Non-Muhammadian Rural): If I may interrupt the Honourable Member, has his attention been drawn to the Supplement issued by the Professor?

Mr. R. K. Shanmukham Chetty: I expected that in the Supplement the Professor would have corrected some of his errors, but he persists in his ignorance and dishonesty. The Trade Statistics disclose this. Without a Trade Agreement, in 1913-14, we supplied 157 thousand tons of linseed to the United Kingdom. In 1924-25, it came down to 125 thousand tons. In 1929-30, it came down to 80 thousand tons and, in 1931-32, it came to only 14 thousand tons. Obviously the pressure of Argentine competition is so great that without preference there is a danger of our trade in linseed in the British market being wiped out and the Professor cannot ask us to believe that the loss to India will be only 25 per cent. of this trade. In estimating the additional market the United Kingdom will get in India, he puts it down at 88 crores, which he has revised in his Supplement to 30 crores. How does he arrive at these figures and what are the items that he includes? He includes items like power machinery on which we have not given preferences. He includes silk and artificial silk goods on which we have not given preference and these items account for a considerable figure. He includes cotton piecegoods, cotton twist and yarn and iron and steel goods which are not covered by the Ottawa Agreement. Even as regards the value of the preference that we have already given on cotton piecegoods, his figures are wrong. He thinks that with the preference, that we have given on cotton textiles, the United Kingdom will capture an additional market of eight crores 80 lakhs, but what exactly are the figures? In 1929-30, the total export of piecegoods from the United Kingdom to India was 88.65 lakhs. Then we gave them a preference in 1930, and what was the result? In 1930-31, the exports dwindled to 12.57 crores and, in 1931-32, they dwindled to 7.96 crores. In spite of these facts revealed by statistics which ought certainly to have been available for this Professor, he makes his dishonest figures to come to the rescue of his phantom conclusion that England will capture an additional market of 8.90 crores. Sir, I can excuse ignorance in a Professor, but ignorance combined with positive dishonesty is quite inexcusable. (Hear, hear.) The whole of this brochure,—if I had the time I could prove it,—is based upon *obiter dicta* which have no basis, upon wrong assumptions, upon dishonest facts, upon underestimating the value of the preferences we have got and overestimating the value of the preferences we have given. Yet this brochure the Federation of Indian Chambers of Commerce have recommended for the acceptance of this Assembly. (Hear, hear.) Sir, the real position is this. A great deal of the criticism levelled against this Agreement from certain quarters has been a positively engineered one. I would ask the Honourable Members of this House to look at the Agreement from a more impartial point of view. Sir, when it suits certain

industrialists in Bombay, they can swallow a preference of 25 per cent. in favour of Lancashire (Hear, hear), and they can ask for a prohibitive duty against Japan: and yet when we honestly do something to get a *quid pro quo*, when we honestly do something to secure advantages for our primary producers, well, this very school of thought at once decry it as being of no value to India.

I would ask this House to judge the Agreement from the point of view of how it will benefit India's export trade in which our primary producers are interested. Sir, even in Canada, we were surrounded very often by a mist of misconception. When we entered the boundary of Canada and, as our boat entered the great river St. Lawrence, we were engulfed in a great mist. We did not know what we should do, and, during the negotiations at Ottawa, as Mr. Stanley Baldwin put it in picturesque words, we had some samples of the varying climate of Canada, which was an index of the varying moods of the Delegates: we had days of cloud, rain, thunder and lightning, but, Sir, we concluded the Conference in bright and cheerful sunshine. I venture to think that when the cloud of ignorance and the mist of prejudice, surrounding this Agreement in India today, have vanished and, in the pure sunshine of reason, it comes to be examined, it will be found to be of some benefit to the primary producers of this great land. (Loud and Prolonged Applause.)

Diwan Bahadur T. Rangachariar: Sir, I have listened with great respect to my Honourable friend, Mr. Shanmukham Chetty. I know he is one of those true and patriotic sons of India. Sir, I know him intimately, almost from his boyhood, and I am not here to quarrel with his motives or with his representative character. But there is one thing which I wish to give expression to. Having to pass through Bombay, I happened to be present at a public meeting at which Sir Lalubhai Samaldas presided. At the meeting a great disappointment was given expression to, that you, Sir, who ought to be on the floor of the House in connection with this matter is now rendered speechless by your occupying that exalted Chair. Now I wish to add, Sir, that I wish now, having heard Mr. Shanmukham Chetty, that he had occupied that Chair now (Laughter) for more reasons than one. In the first place, the Government would not have had such unpaid for but able advocacy which they are having at the hands of my esteemed friend, Mr. Shanmukham, and, in the second place, with due respect to him, he would have been saved the reproach for a portion at least of the splendid speech which he has made in defence. I wish he had not exhibited such vehemence and anger. Naturally, Sir, as he has been attacked, he is on the defensive. At the same time, I wish he had refrained from indulging in the accusations that he did. I do not know the present colleagues of the men in question, but I know he, Mr. Shanmukham, was one of the most distinguished members of the Federation of Indian Chambers of Commerce. I wish also my Honourable friend had saved himself the unnecessary task of disputing their very high sense of patriotism. Of course he knows how easily we taunt each other with entertaining personal motives and with not caring so much for public interests; and, especially, if I were in my Honourable friend's place, I would not have added those passages in a speech which, in other respects, is so remarkable and so able. Now, having said all that, I am sorry to say that I am left unconvinced that my learned friend's judgment at Ottawa has been quite correct. I know he has tried his best. Although we did not here in the Assembly choose him as our representative, I

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am sure, if the choice had been left to the Assembly, having regard to the unanimous way in which we elected him as the Deputy Speaker, I am sure our choice would also have fallen on him. (Hear, hear.) But, Sir, the system under which we are working is so demoralising. Here a choice made by us implies certain obligations, and a choice made by my Honourable friends over there implies certain other obligations. We do not see eye to eye on these economic problems affecting the country. Unfortunately my Honourable friend over there—I am sorry for him—is the first Indian Commerce Member whom we have the honour of welcoming here—I beg your pardon, Sir C. P. Ramaswami Aiyar was the first Indian Commerce Member. Well, my Honourable friend succeeded him. Now, we have been agitating for an Indian Commerce Member for so long, and it is rather an irony of fate that the first Indian Commerce Member should have to support this Agreement on the floor of this House.

Sir, one thing has been completely forgotten by my Honourable friend, Mr. Shanmukham Chetty, and also others who have approached the consideration of this question, namely, the relative position of each of the countries which have entered into this bargain. What is the position in India? We are a country with an overflowing population, rising steadily, decade by decade, having nowhere else to go (Laughter), thanks to my Honourable friend, Mr. Bajpai. (Laughter). Nobody else will take us. Our millions are growing in numbers. We were about 180 millions when I was a child and now we are 350 million odd. I do not know what will be the number when I will lay down my life. But what are we to do? What is the economic condition of the people? The agriculturists, who form the bulk of the population, are involved in debt day after day, month after month. Sir, my Honourable friend spoke of the expanding capacity of our agricultural products. What does it require? It requires capital, enterprise, organising capacity, knowledge, self-contained scientific instruments and co-relating industries in the country. I quite agree with my Honourable friend, Mr. Shanmukham Chetty, that it is the right policy to pursue to expand the main industry of the country, namely, agriculture. Notwithstanding the exertions of my Honourable friend over there in his Department—I think Sir Frank Novce is in charge of the subject of agriculture—and my friend, Sir T. Vijayaraghavachariar and others who have been labouring in the field of agriculture, the results which they have achieved, I am sure, will appear to them very disappointing, notwithstanding the intensive propaganda which has been carried on by the Agricultural Department all over the country. What are the results achieved? Are they commensurate with the exertions exhibited and with the quantity of funds spent? Now, Sir, it is all due to the fact that we have got an ignorant population. Many of them are illiterate and ignorant and do not know how to organise; they are suspicious of each other and like the primitive methods. So it is very difficult to induce the agriculturist of this country to depart from his own pristine methods. Oftentimes in foretelling weather he is a very wise man that I know of. In the matter of improvements by applying scientific knowledge he is wanting in capacity, he is wanting in finances and he is wanting in the capacity to organise. Therefore, Sir, however much we may yearn for the day when agriculture is to be learnt better and lived better, I think that day is far too distant for you and me to realise. Therefore, that is one matter which has been overlooked

in entering into this arrangement. On the one side, what is it that you have got? My Honourable friend has told us frankly that he has not forgotten or neglected the principles which you have laid down in your memorable report on the Fiscal Commission. He adheres to them even today and he will follow them if he can. Therefore, there is no question now of that. My Honourable friend assures us that so far as he is concerned, there has been no departure in the policy of the Government of India. I do not know if the Honourable the Commerce Member will endorse it. What is the policy which has been pursued by the Government of India up to 1930? We must be sure of results before we embark upon any preferential tariff. The risk must not be too great. The retaliation should not be felt and the Indian opinion expressed through the Indian Legislature should endorse the policy before it is launched. Sir, I think those are the essentials of the policy hitherto pursued by the Government of India. Are they satisfied? Are they sure of the results which will come to India by this Agreement? I am very sorry to say, I was not here when the Honourable the Commerce Member made his speech, but I read a report of it in the *Statesman*. It did not contain such positive assurance as my Honourable friend, Mr. Chetty, has given to us today. He still left it as a matter of doubt whether really India is going to positively benefit by this arrangement. My Honourable friend, Mr. Chetty, gives the go-bye to para. 18 of his report. He says, it was a great mistake. I think he will say that it is not happily worded; it was not intended to convey what the words do convey. It only means that the Government of India wanted to take part in this Ottawa Conference. But, however unfortunately it may have been worded, the words tell a different tale. However, when we look at the large volume of material for which preference has been given, it covers about four long Schedules containing over 100 items. My Honourable friend will not call it Imperial Preference. It matters not what the name is. We want to look at the substance. What is it in substance? It is a case of giving preference to various articles which are imported into this country from United Kingdom which are too numerous to mention. On the one side, it is a positive gain if you look at it from the point of view of the United Kingdom that they have an overflow of production. They are not able to find the market. Their market in this country has been diminishing gradually and steadily year after year and the official report will bear it out. Even the last publication of India in 1930-31 contains that woeful tale that Britain is losing ground and the United Kingdom is losing in India, and other countries are gaining grounds in this country. England was on the brink of a financial ruin last year. Thanks to the united efforts of the Nationalist Government, they have tried to rehabilitate themselves and it is a matter for congratulation that they are very nearly succeeding in their attempt. But who has contributed largely in the matter of helping them to stand on their feet? My Honourable friend said that, in a matter of negotiation, you must make out what you are going to give in return for what you are going to ask. That is quite true. But did my Honourable friend tell them as he ought to have done: "My friends, you ask for a return. By your policy and by your order asking us to link the rupee with something else"—I am not able to use the correct currency expression for that,—"you have induced India to part with 90 crores of solid gold which you were sadly in need of and you are establishing your credit with France and the United States of America with the help of that gold. What return have you given for that?" Was it not a solid gain? It was due to the

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deliberate action of the British Cabinet supported by the Government of India in criminally allowing this gold to escape this country freely before their very eyes. It was unjust to the poor ryots to send away their savings by giving them an extra price. And what did they do with the money that they realised by selling their gold? They paid Government revenue; they performed their marriages on a grander scale; they performed their ceremonies and other things which they would not have done otherwise. Yet that was what enabled Britain to stand

on her feet now and say with a proud face, "We are once again the premier financier nation in the world". What return did we get? Did my Honourable friend put that question, when they said they wanted a return? What return did we get for having been tied against our will to the free trade policy of England? You open the doors wide for yourself and your cousins abroad, first and second cousins abroad, you also open the side doors in the shape of administrative conveniences such as the regulation of railway tariff to suit the imports into this country. Did my Honourable friend ask that question of the Britishers? For over 100 years they enjoyed the benefit of India being in their possession and they have a subordinate Government here which they control from England at their sweet will and pleasure. What benefit have we derived in return for all these. It is the Britishers that derived all the benefit from being in possession of this country. You have had beautiful investments in this land, yes, you have invested and re-invested the huge profits you made in this country and you want safeguards for those interests. Is the word 'safeguards' a mere expression or are they really in earnest about "safeguards"?

My Honourable friend, Mr. Chetty, seems to have been frightened by the threat about tea. Was it not one of those interests for which they want safeguards in the political constitution? Do they mean to include the tea industry in that or not? Will my Honourable friends over there kindly answer? When Mr. Benthall went to the Round Table Conference to represent the Calcutta European interests and formulated his propositions regarding safeguards for European commercial interests in this country, did he omit to include tea in that category? No, Sir. The British nation knows much better than we do. They are more cunning than we are. My Honourable friend, Mr. Chetty, was easily deluded by the threat and that is my chief complaint against him. He was not a strong man. I know what atmosphere surrounds an Imperial Delegate. I may say at once that that is not the proper place for making a bargain. The place for making a bargain is a business conference carried on either in London or here. You go and conclude this Agreement with England at Ottawa, far away from this place and far away from the influence of your Honourable friends to your right and to your left. I am sure, Mr. Chetty would have secured better results if he had been deputed to do the work either in London or here. That apart, I want to see whether we are really going to expand our export trade and is it worth while expanding our export trade in raw materials? We have to leave a legacy to our succeeding generation; we leave them a legacy of population and we must leave them at the least the potentiality of developing the resources of this country for their benefit. We cannot take risks with those potentialities. Speaking with all respect to my Honourable friends, I am afraid we are taking unknown risks in being asked to ratify this Agreement. Our trade has now reached a certain steady level. We are

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exporting about one-third of our exports—I am not sure. I can only speak in substance—we are exporting a third to the United Kingdom and the United Kingdom has an advantage of taking less from us and sending more to us. Countries take more from us and send less to us, so that it is a disadvantage to us to trade with other countries in that it leaves us a balance of trade over imports. But, in the case of England, she always sends more to us because even at the present day, with her diminished exports to this country, she takes less from us and sends us more. However, that is another matter. The point is this. Are you going to disturb that trade which has now steadied itself with various countries? This must be the result. Does my Honourable friend deny that fact? Will you not be diverting the sources and the channels of trade with various countries? Will it not be disturbing the arrangements which existed for years together with various business houses? Now, this will have undoubtedly a disturbing factor. Are you being sufficiently recompensed for that risk which you are taking? I think not. Except in the case of tea, in the case of linseed, if you take all oilseeds together, my Honourable friend will realise that England is taking less and less as years go. I do not know why. Does my Honourable friend realise that for the last few years in the case of oilseeds, all put together, England has been taking less and less? She took about 15 per cent. last year.

Mr. R. K. Shanmukham Chetty: It is due to foreign competition. Argentine has been displacing us.

Diwan Bahadur T. Rangachariar: They take only 13 per cent. of our exports of oilseeds. Taking for granted that other countries have displaced us in the matter of oilseeds, cannot my Honourable friend realise that we can establish oil mills in this country and also manufacture from those materials all those products which we are now importing for our toilet purposes and other things? Does he not contemplate such a state of things? In this respect what does the report suggest? Take for instance, soap, which is now seeking a firm hold on our household. Mysore soaps are very much in vogue these days and there is also a Government soap factory in Madras. These soaps are now slowly lifting their head and capturing our household and they are displacing foreign soaps. What are you doing by ratifying this Ottawa Agreement? You are making British soap much cheaper in this country. British soap is a great competitor to Indian soap and yet you want to give preferential treatment to British soaps.

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions: Muhammadan Rural): They are needed more in Madras than anywhere else.

Diwan Bahadur T. Rangachariar: I do not know that. However, this Agreement will have a deleterious effect on the soap industry. Take the case of metals. My Honourable friend did not realise that in the case of metals, England wants protection for what, not for her own metals. She imports her metals from abroad, shapes them and makes them into sheets and sends them over here. Take aluminium. Take those things which are necessary commodities for our household. We use aluminium utensils for our household. The manufacture of aluminium utensils was in Indian hands till recently. The English exporters have established their own factories here and they are manufacturing aluminium utensils in India in competition with Indian manufacturers. So much so that aluminium

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industry which was 85 per cent. in Indian hands has now gone into the hands of European manufacturers in this country displacing the Indian manufacturers. That shows want of organising capacity amongst Indians. The Englishman easily comes here and replaces us in all fields, because he belongs to a better educated and a more cohesive community like the European settlers all over the world. Now, only 15 per cent. of aluminium industry is in Indian hands. If you give preference to the British interests, the same fate will overtake our copper industry. We have largely been using copper utensils in our household. Are you going to allow all our industries to be displaced by European manufacturers? Have you contemplated the possibilities of these risks? Has that question been examined carefully by any committee of experts? The report shows no indication of these points having been examined or of the authorities having been alive to these defects in the Agreement. My Honourable friend told us about the principles which guided them in drafting the report. I have no quarrel with the principles. The principles are sound enough. The only point is, the whole question has not been examined thoroughly from all points of view. They have not taken into consideration the injurious effects it will have on our industry, they have not taken note of the want of capacity on our part to compete with the British industries. My Honourable friend recognises that diversion of trade is no benefit to us. What we want is real expansion, but our capacity for expansion is limited, whereas the capacity of the other party to send his goods here has no end of them. Because the other party is in straitened circumstances for want of outlet, he is, therefore, ready to take his part of the bargain. My Honourable friend tells me that if we agree to this pact, on some distant future date, we will also be ready to expand and when we have expanded, we will be able to enjoy all the benefits which are conferred upon us by this Agreement.

Sir, with regard to tea I quite realise that if the British Government are really in earnest about tea, we must all join hands with my friends over there to protest against this most unjust and iniquitous action on the part of the British Government to impose any duty on tea. They ought not to do it. Do they want India or not? Is India worthless to them? Is it only on these terms that they want India, a fresh bargain? Do they want a fresh bargain with the Colonies? No. Has India been placed on an equal footing in the Empire? No. On the other hand,

Mr. R. K. Shanmukham Chetty: We have got a better bargain than most of the Dominions.

Diwan Bahadur T. Rangachariar: My Honourable friend may congratulate himself on that; but the net result of it is, unfortunately, as I am able to see, injurious to the future interests of India as far as I can visualise it. But how does he propose to give effect to this preference? My Honourable friend says, either increase the duties or diminish the duties or do both. What about taxation, what about the consumer? What has my friend, the Honourable the Finance Member, got to say about it? When the next Budget comes, he will have to come to us with a diminished revenue. I see alarming reports about the receipts under Customs and under Railways. I am afraid, even to meet our ordinary needs, we will be confronted with proposals for taxation, and where do they come from? From the Customs revenue. The Customs

revenue gives us more than 50 per cent. of our net revenues already. Now, my Honourable friend either increases the tariff on foreign goods or diminishes the tariff on British goods. If you diminish the tariff on British goods, what happens? You reduce your available funds. My Honourable friends over there want the ten per cent. cut in their pay to be restored next year. Then, how will the Government be carried on if you diminish the revenue from Customs? Then, they say, we shall increase the tariffs on other goods. But who is to pay? The poor agriculturist. It is he who will have to pay indirectly in the shape of higher prices for his goods.

Mr. R. K. Shanmukham Chetty: I can tell my Honourable friend that out of a total of 258 crores of imports we have agreed to give preference only to 58 crores.

Diwan Bahadur T. Rangachariar: As the old saying goes, the last straw breaks the camel's back; and any little addition to the tax, either direct or indirect, in this country is sure to lead to rebellion. There are other things leading to it also; and this is the only place where I can speak frankly now-a-days. But what is it that you are doing? You are compelling me to prefer you. It is like a husband saying, I will have a wife in every port, and you, my wife, must be my Seeta. That is the position, Sir. Sir, my Honourable friend has given away a very valuable instrument which we had in our hands, namely, the bargaining weapon which we had for securing Political equality. I quite realise the importance of coming to an Agreement with the Empire, and, in the first place, with England. I am not one of those who want to be out of it; I am proud to belong to it although that pride is going down day by day. At the same time, I want to retain that friendship. But that is the one great weapon which we had. My Honourable friends, when it suits them, advise me to avoid politics, but when it does not suit them, to introduce politics. But how can I forget politics when I have to deal with the economic condition of my country? We want to retain that weapon, that is one reason. The second reason is that I am not satisfied that it is to the best interests of the country. On the other hand, I am inclined to believe,—I will not be so positive as my Honourable friend,—that it is likely to be injurious to the interests of India. On all these grounds I ask my Honourable friend to come with us into the lobby. I will appeal to his sense of patriotism and not to desert us and be the only Indian to support the Resolution. After all, no man can say that he has the monopoly of wisdom, and public opinion has expressed itself very strongly upon it. Sir, I would be failing in my duty if I do not convey at this stage the message given to me by a public meeting in Bombay:

"This meeting of the public of Bombay consider that the Indo-British Trade Agreement made at Ottawa is opposed to the fundamental principles of national economy and is detrimental to the progress of the Swadeshi movement inasmuch as:

(i) it entirely ignores the inevitable effects of the proposed preferences on the industrial and economic development of India; and

(ii) it is not based on the principle of reciprocity, because it ensures, at the cost of the Indian consumer and the taxpayer, a substantial market to the British manufacturer without any adequate return to India."

Sir, I conclude.

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

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

Dr. D. B. Meek (Government of India: Nominated Official): Sir, I rise to support the Resolution moved by the Honourable Member for Commerce. Before proceeding any further, I should have liked my Honourable friend, Mr. B. Das, to be present so that I might thank him for his cordial welcome to me as a novice to this House. He referred also to the Department of Statistics and said that he depended on my raw materials: at least as far as I remember, I think he said that he depended on my raw materials for his finished product. I am sorry that, in this particular case, although he has been giving my raw materials, viz., statistics, considerable preference—that I assume that from the number of publications which I have had to issue recently, I cannot give him reciprocal preference, so far as his finished product is concerned.

To the Resolution which has been moved, there have been various amendments. One of these amendments suggests a reference to the Tariff Board of the Ottawa Agreement for examination and presumably report on its merits. The Tariff Board, I need hardly say, is a body with functions definitely laid down. The functions are to examine applications from industries or industrial bodies desiring protection and, after examination, to report to Government as to the necessity or otherwise for protection, and the form which such protection ought to take. The Tariff Board also works along definite lines and is controlled by definite guiding principles laid down in that memorable document produced by the famous Commission of which you, Sir, were the able President. These being the functions of the Tariff Board, what is the purpose of referring the Ottawa Agreement to such a body? The Agreement concluded at Ottawa contains nothing which in any way impairs the protective element in our tariff so far as Indian industries are concerned. Throughout the whole report, the Delegation have been careful to indicate, time and again, that protected industries in India had their first care. At the head of Schedule F of the report, it is carefully stated that the 10 per cent. preference to be granted to the United Kingdom by the Agreement does not extend to articles which are liable to protective duty at special rates under part 7 of Schedule II of the Indian Tariff Act. There is no danger, therefore, in accepting the Resolution which has been placed before this House, that those industries in India which are at present receiving protection will have their protection in any way minimised by the necessary amending legislation to give effect to the Ottawa Agreement.

I have a feeling that the desire to refer this matter to the Tariff Board probably arises from the fact that the Board is called the "Tariff" Board. The impression seems to be that any amendment to the Indian Tariff Act must necessarily be referred to the Tariff Board. But amendments to the Indian Tariff Act take place practically every year: we have a Finance Bill every year and we do not refer the annual Finance Bill to the Tariff Board. We do not even refer the materials on which the Finance Bill is prepared to the Tariff Board. For that reason, therefore, I consider that a reference of the Ottawa Agreement to the Tariff Board is unnecessary.

And I would go further. Supposing reference were made to the Tariff Board, what could the Tariff Board really do? We sent a Delegation to Ottawa, one of the strongest Delegations which probably has ever been

sent from India to any conference. They spent, in time of preparation and in time of concluding their report, about four and a half months work on the problem which has been set to them. If these gentlemen, experts in many lines, particularly experts in tariff problems, spent four and a half months in detailed study in order to produce an Agreement and this Report, what can we hope that a Tariff Board, a small body, a very small body, relatively to our Delegation, can do in any relatively short time to improve on the position, or even to enable us to understand more clearly the benefits which we hope to derive from accepting the Delegation's Report and accepting the Agreement arrived at at Ottawa? In my opinion, this would be simply repeating the work already done, asking a small expert body to do what has already been completed, and, in my opinion, well completed, by a highly trained, large and highly efficient body, already appointed by Government. It would simply result, so far as I can see, in a waste of time and money. Further more, it is difficult for me to believe that the Honourable Members of this House find any difficulty in understanding the problems which have been raised in the Report or in evaluating the value of the preferences which are contained in the Agreement.

I turn now to another point. Many Honourable Members in this House have referred to the danger of retaliation. They have expressed a fear that if we send goods to the United Kingdom under preferential tariff and if we give preference to imports from the United Kingdom into India, and from one or two other parts of the Empire, other countries, foreign countries, will retaliate on India and refuse to take our raw materials. This question of retaliation crops up every now and then. In my opinion, it is an entire bogey. The countries which buy our raw materials buy those raw materials, because they are cheap: they would not buy from India if they could get them cheaper elsewhere. They cannot put a very high tariff or a very high import duty on the raw materials, because their importers would complain that their industries were being crippled. They import these raw materials for the purpose of manufacturing articles for export. They must keep down the price of their exported article and they must, therefore, keep down the price of the raw materials.

Gardar Sant Singh (West Punjab: Sikh): May I inquire from the Honourable gentleman whether the same argument would not apply in the case of England too?

Dr. D. B. Meek: I take it that England will not retaliate against us if we give them preference. Another point which makes me feel that retaliation is not a matter with regard to which we need have any great fear is the fact that, in many cases, we are under agreements with countries to receive most favoured nation treatment. It is not possible for foreign countries in these cases to levy a higher duty on goods from India than on similar goods from other countries, the only exception to that would naturally be the Colonies belonging to the foreign countries. But as we know from an examination of the Atlas, most of our buyers in Europe are rather limited in the Colonial areas which they possess competing with India in the production of raw materials which we send to them.

[Dr. D. B. Meek.]

Also in support of the argument that retaliation is not a matter with regard to which we need have much fear, I give an example. Recently in the case of France, extra duties have been imposed on articles imported into France at low prices on account of the depreciation of currencies in other countries, France remaining on the gold standard. In that case, a number of articles sent from India to France are left free, or if not free before, are left subject to the same duty as was applied to them before this new arrangement came into force. The reason is simple. France requires these articles from us at the lowest possible price, and her importers will not allow Government to impose high duties on the raw materials which they require for the manufacture of the products which they export to other countries. Similarly, we might say the same with regard to Japan. Japan will still buy our cotton even if we place a very high duty on her piecegoods imported into this country. She will buy our cotton as long as the price of our cotton is slightly below the parity rate; that is so long as it is a good bargain she will not buy American cotton in preference to Indian cotton.

Sir, I turn to another point. One of my Honourable friends opposite seemed to think that under the Ottawa Agreement, there was a difficulty, there was a danger, that we might lose the preferences which the United Kingdom would give us if other countries approached the United Kingdom, if other countries negotiated with the United Kingdom, for the purpose of entering into trade agreements. As far as I remember, it was indicated, from press report, that some 16 countries had already approached the United Kingdom for this purpose. That is all to the good. That, in my opinion, apart from the general economic question, altogether proves that these countries must think that the agreements which have been concluded at Ottawa have a real value; but that is not the point which I wish to make at present. I feel convinced that most of us think in that direction. The point I wish to make at present is this. I wish to remove the misapprehension from the Honourable Member's mind, if it still exists therein, that the Agreement does not safeguard India from the destruction of our preferences by the formation of Trade Agreements between the United Kingdom and other foreign countries. Articles I, II and IV cover that. If Honourable Members who have any doubts on the subject will refer to Article IV particularly, they will see that what I say is correct. With your permission, Sir, I shall just read that Article. This is what it says:

"His Majesty's Government in the United Kingdom undertake that no order will be made and that Parliament will not be invited to pass legislation which would have the effect of reducing the margin of preference now enjoyed by Indian goods of the kinds specified in Schedule C over similar foreign goods, and further undertake that, in the event of any greater preference being accorded in respect of such goods imported from any other part of the Empire, such greater preference will be extended to Indian goods."

This latter portion is, of course, always very welcome.

With your permission, Sir, I will take another point, the point raised by one of the Honourable Members yesterday afternoon. As far as I can remember, the point is this, that the Supplementary Agreement, that is the Agreement which relates to iron and steel, will place India in the

position of a country which will not produce more than semi-finished materials. It would, as far as I can recollect, place India in the position to manufacture only semi-finished products for a very long time. The question was asked,—why do not Tatas roll all the steel sheet bar into galvanised sheets, why don't Tatas do the rolling themselves? The whole point was very fully and clearly explained in paragraphs 72 and 73 of the Report. I can put it this way. India has given protection to the steel industry. During a certain period we arranged, at least it was arranged, that an increasing quantity of steel would be manufactured. The depression comes along, and these orders are not forthcoming to Tatas. Tatas find, or rather the steel industry, say, finds, that they have a large amount of steel which is not required for the manufacture of steel rails. They have a sheet mill, a mill which rolls galvanised sheets. Its capacity is limited, and it is working to its full capacity. But the mill, which produces sheet bar, produces far more sheet bar than is required in this country, and far more sheet bars than it is possible to turn into galvanised sheets. We have, therefore, a surplus steel which at the present moment, and for some time to come, cannot be manufactured into finished product, if we call galvanised sheet a finished product. It is, therefore, surely a good bargain to send it to foreign countries if they can take it under such terms as to make it profitable to this country to receive back the finished article.

That is not the only point. The next point in regard to this Supplementary Agreement is that it will only last for 16 months; it will terminate at the end of March, 1934; and a stronger point still, in my opinion, is the fact that the Supplementary Agreement is a result which follows naturally from a definite agreement between industrial interests in this country and industrial interests in the United Kingdom. We have heard complaints all summer that industrial interests have not been consulted. This is one particular case where no one can say that the entire industrial interests, both on this side and on the other side, have not been fully consulted.

Sir, if I may, I shall take another issue, and that is the point regarding the feeling that this Ottawa Agreement and the whole programme following therefrom has been the result of action which has been described more or less as holding a pistol at the head of India. It became clear during the debate that some Honourable Members were still under the impression that the Import Duties Act of the United Kingdom would come into force on the 15th November. The Import Duties Act, if I may say so, has been in force since the 1st March, 1932—it has been in force for eight months. We have been enjoying preferences for eight months. We have given nothing in return. The only pistol, if it could be called a pistol, is, "I have given you preference for eight months, and is it not time or would you not like to say what you are going to give me in return?" I want just to make it perfectly clear that the Import Duties Act came into force on the 1st March and is not associated in that particular connection with the date 15th November.

Now, Sir, it might be a long subject to embark upon, but the Import Duties Act having come into force on the 1st March, we have been receiving preferences for eight months. The Agreement will bring in changes in certain preferences, but there have been preferences from the

[Dr. D. B. Meek.]

1st March, and what effect have those preferences had on our trade in those six, seven or eight months? Well, the period is very short, we are in the depth of a trade depression. Countries are jumping about so far as exchanges are concerned, so far as currencies are concerned. These are all problems involved, and I would not wish that anyone would go away with the impression that I lay any great stress on figures which deal with such a short period. Obviously, when preferences were going to be given, foreign countries must have forestalled this action and dumped goods into the United Kingdom in very considerable quantities, and these stocks have to be worked off before the effect could be appreciated by those countries which receive the preferences. But I have taken the trouble to compile figures of the principal articles of export from India, only principal articles, large articles running to a quarter of a crore or half a crore per annum, which have received preference from the United Kingdom during the last seven months. I have taken out the corresponding figures for the previous year. As I say, I do not lay a great deal of stress on these. They refer only to a period of seven months, of which we might say only two or three were effective. But among the 27 articles, important articles exported from India, it is strange to find that in 20 of those the United Kingdom has definitely increased her percentage takings from India as compared with the previous year. In the case of articles without preferences, also large articles, the number of increases is 4 out of 9—4 increases out of 9 in the case of articles without preference, and 20 out of 27 in the case of articles with preference.

Diwan Bahadur T. Rangachariar: May I ask, what article shows the highest tendency in this figure?

Dr. D. B. Meek: As far as I can make out, pig iron has jumped from 15 per cent. to 34. The percentage share of woollen carpets and rugs has also jumped up. But 20 articles out of 27 have shown an increase in the United Kingdom's percentage share.

I should like, if I may, to continue my remarks about pig iron. Here we have an article which has been produced in this country, and is now and has been for a good many years exported to foreign countries. The total productive capacity of this country is about 1½ million tons. The foundry requirements are about 150,000 tons, steel manufacturing requirements 500,000 tons, and this leaves a balance of 850,000 tons. That is the exportable surplus of the country, that is the balance for which we would like to find an export market. If all our pig iron blast furnaces were going at full capacity, we could produce 1½ million tons of pig iron, and we would like a market for 850,000 tons. As has been pointed out in the report, the exports to Japan, which was formerly one of our biggest consumers, have gone down very considerably. Those to the United States also have gone down largely. We find at page 31 of the Report that the exports to Japan have fallen from 180,000 tons per annum to 50,000 tons for the first seven months of the year; those to the United States have fallen from 51,000 tons to 15,000 tons for the first seven months of this year; but the exports to the United Kingdom have risen from 69,000 tons for a whole year, that is, 1931-32, to 43,000 tons for the first seven months of this year. The percentage, as I mentioned a minute or two ago, the percentage of exports from India to the United Kingdom, has

risen from 15 per cent. to 34 per cent. in one year. There are many other items on which I could give figures, but I will not trouble the House any further.

In conclusion, Sir, I should like simply to say this. I feel that this Agreement, which has been concluded at Ottawa, is probably, at least in my opinion, the best bargain of all the agreements which were concluded there. In it there is a clause which allows its determination by six months' notice on either side. The only thing I feel that is wrong about this Agreement is that the Delegation did not tie up the United Kingdom to it for more than six months. (Cheers.)

Sir Abdur Rahim (Calcutta and Suburbs: Muhammadan Urban): Mr. President, within the time at our disposal in this debate it is not possible to deal with the specific items which are dealt with in the Indian Delegation's Report. One can only deal with the general features of the situation as created by this Trade Agreement.

The last speaker, Dr. Meek, whom we are all glad to see in this House, has replied to certain points which have been made on this side of the House. I will come to the question of referring the matter to the Tariff Board for examination afterwards. My Honourable friend, Dr. Meek, says that so far as retaliation from foreign countries is apprehended, there is no danger, because they would naturally like to buy the raw articles from India cheap, so that they can export the finished articles at a profit. One question was put to him, while he was speaking, whether that argument did not apply equally to Great Britain, and so far as I could judge, the interpellator did not get any satisfactory answer at all. Sir, is it possible to think that Great Britain will not act in the same way, or that Great Britain will act in a vindictive spirit towards India, even if her own interests require that there should be no retaliation, no imposition of duties, because we are unable to give preferences to England on some of her articles? It is not, however, merely a question of retaliation, but we all know that unless we are in a position to buy from foreign countries, they will not be in a position to buy from us. This is an ordinary elementary principle of economics and I have not

heard from Dr. Meek, who is such a well known expert, any answer to this argument. What is our trade position? Our trade with foreign countries is nearly 66 per cent. while that with England is 33 per cent. That is to say, our export trade..... (Mr. F. E. James: "Is that the total of all countries?") Yes, we are concerned with our total trade. We do not want a diminution in our total trade. We want an expansion of our trade and we have got to see whether this Agreement will lead to expansion or not. My friend, Mr. Shanmukham Chetty, who as usual spoke with a great deal of eloquence and, I am afraid, also with considerable heat at moments, did not tell the House what would be the effect of this Agreement on India's balance of trade. I suppose he did not tell us, because he was not in a position to tell us, but my greatest grievance, so far as this Agreement is concerned, is the way in which the Government of India regulated the procedure with reference to the task which was made over to the Indian Delegation. So far as the Self-Governing Colonies were concerned what was the procedure which the British Government adopted in dealing with them? They gave their own list of commodities on which they wanted preference from the Colonies to their representatives in the Colonies and similarly representatives from the Colonies came over to England with their list. Who prepared

[Sir Abdur Rahim.]

the list in our case? Let us hear what Mr. Stanley Baldwin says. He seems to have been surprised at the procedure adopted by the Government of India in this respect. Mr. Baldwin says on page 53 of the Report:

"You have no doubt heard from your Government that the discussions preliminary to the actual Conference are intended to be of a quite informal and provisional character. Such discussions are already proceeding with representatives of the Dominion Governments both in London and in the Dominions. Our representatives in the Dominions have been furnished with lists of the goods in respect of which further tariff concessions will be specially acceptable to this country and the lists are being discussed by them with representatives of the Dominion Governments. Similarly in London some of the Dominion representatives are furnishing lists of the concessions desired by their Governments and these are being discussed by them with departmental representatives of the British Government. It is the desire of your Government (addressing the Delegates who were then present) that both sides of the preliminary discussions between this country and India should be conducted with you in London and it has been agreed in the correspondence that they shall have the same informal and provisional character as the negotiations with the Dominions."

Did not my friend, Mr. Shanmukham Chetty, realise at what great disadvantage he and his colleagues were placed by this procedure of the Government of India? They had not the advantage of consulting the business houses of this country. They had not the advantage of consulting our economic experts or other persons competent to give an opinion on these momentous questions. They were there in London. I do not know who prepared the list. We are told by Mr. Chetty that the Indian Delegation were lucky enough or successful enough or able enough to get all their items accepted. Sir, who prepared the lists of those items? It must have been the Government of India.

Mr. R. K. Shanmukham Chetty: The Delegation prepared the list of the preference that India wanted in consultation with the Government of India.

Sir Abdur Rahim: The Government of India originally supplied the list, I take it. They had this list out in London where they were out of touch with the business people here, out of touch with India's public opinion in the country. It was a most serious matter to place the Delegation at this very great disadvantage. It was not fair on the part of the Government of India to place them in this position. What did the British Government and the Self-Governing Colonies do? They knew that in matters of such vital importance in which such extensive interests are affected, there could be no list prepared unless they had the advice and the opinion of persons who were interested in the business. That was the difficulty of our Delegation there and that is the reason why my friends, Mr. Shanmukham Chetty and Haji Abdoolah Haroon, find themselves in absolute isolation in this country so far as public opinion and the opinion in this House is concerned. Everything was done by the Government of India and the Government of India, being a subordinate Government, those lists were prepared in consultation with the India Office and the India Office must have consulted the Department of Trade or whatever the Department is of the British Government. I say, they were, in fact, faced with a fait accompli. They had the list on which Britain wanted preference, to which I take it the Government of India had already given their support. I should like to know from Sir Joseph Blore why this peculiar procedure was adopted in the case of India? Was it because India is not a Self-Governing country. Did or did not the

Government of India decide everything or rather the gentleman in Whitehall, who is a member of the British Cabinet. Therefore, I say, there was no independent examination of the problem involving very difficult question, with which the Indian Delegation was faced in London. I should be the last person to suggest for one moment that my friends did not do their utmost to safeguard the interests of India, but they were at an absolutely fatal disadvantage. They could not claim to know all the ins and outs of Indian business and the way in which the various business interests would be affected. I trust they do not claim, indeed they cannot claim that they are authorities on every subject that was discussed at Ottawa. Sir, if they had been given the opportunity to discuss matters here, if the matters had been discussed with them in India, and if they had had the opportunity of discussing them with their business friends and leaders of public opinion in this country, then the position would have been entirely different. Sir, this is the fatal defect of this Report, the very foundation, on which it is based, is bad, absolutely bad: it is virtually the Report of the Government of India (Hear, hear), at least it is a Report supporting conclusions arrived at before the Delegation landed in London. Sir, our request embodied in the amendment is of an extremely modest character, and I am surprised to find that the Government Benches, so far as we can gather from the last speaker, are not inclined to listen even to such a request. What is it that Government want? They tell us through their experts that these are very complicated economic questions and, therefore, we must consider them very carefully. We must not throw out the Agreement off-hand. Then, what do you want? We know the Indian Delegation had not the advice of Indian public opinion and Indian business experts here. Are we going also to vote blindfolded? Is that what the Government want? (An Honourable Member: "Take their word for it!") That is the real position in which they place us. Sir, if the Tariff Board, or a Select Committee, as suggested by my friend, Dr. Ziauddin, were to make an inquiry, they would have the opportunity of examining witnesses who have knowledge of the matter—because knowledge of the country's business is not confined to half a dozen men, but there are other men also who can speak with authority on the subject. Sir, are the Government going to turn a deaf ear to us? Look at the very list of the commodities on which India is asked to give preference to England. Their number is 163! It covers all sorts of things,—glue, bedsteads, motor cars, all sorts of things. There is nothing left. Can you not imagine for one moment how vast and extensive are the interests that will be affected? The manufacturers, the traders, the petty shopkeepers, hosts of them will be affected, and surely it is only fair on the part of the Government to give them the opportunity through their representatives to make such representations as they choose how their interests are affected. Sir, we all listened with attention to the speech of my Honourable friend, Sir Joseph Blore, who is always listened to in this House with respect (Hear, hear), but I was somewhat pained to hear him harp so much on the necessity of avoiding bias and prejudice on this occasion. Sir, I confess I am biased: I am biased against giving preference to Britain's interests over the interests of India. (Here, hear.) That is our bias. What is the bias of my Honourable friend representing the Government over there? So far as his personal inclinations are concerned, we do not know and we do not want to inquire into, but he is a Member of a Government which are subordinate to the British Government. He is their spokesman here. Consciously or unconsciously he has to

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voice the interests of Great Britain in this matter. Now, my friend, Mr. Chetty, has said: "we carefully safeguarded our policy of discriminating protection". In respect of what articles? Our raw materials! (Laughter.) Raw cotton, jute, etc. But what is the protection we want? What is the protection that we may want in future? It is for industries which the resources of this country which, thank God and nature, is really very vast, might enable us to establish in this country and not for our natural products. Is there anything left out of the list of preference to Britain? If we are to give preference on all these articles, then vast interests will be created; and, situated as we are, would it be possible for us on six months' notice to get rid of these preferences?

Diwan Bahadur T. Rangachariar: They can be got rid of by the new Government!

Sir Abdur Rahim: The new Government? I do not know what that will be like. But I do not share the optimism of my friend, Diwan Bahadur Rangachariar and other speakers on my right, that we are going to be full masters of our own destiny. I do not believe that. (*Diwan Bahadur T. Rangachariar:* "Neither do I.") Sir, I may be permitted to say at once, if I may express an opinion, that I doubt if the future Assembly will be any more effective, or will be even as much, or as little, effective as this one. A friend says, the Princes will be there. I do not know what elements will be there, but whatever Government will be here in the future, they will be so well protected that we shall be able to make no impression on them whatsoever.

Sir, one word as to discriminating protection. I think one of the speakers on this side thought that it meant that there might be discrimination in favour of Britain. I am sure, Sir, that is not what was intended in your famous Report in the Fiscal Commission, nor is it the natural meaning of those words. Discriminating protection means that we would only protect those industries which will be of benefit to the country and which have a fair chance of growing and establishing themselves. It means nothing else. I find that something is made in the Delegation's report of the two cases in which preference was given to Britain,—cotton goods and steel. Well, we also know the history,—how that was brought about. If we did not agree to give preference to British steel and cotton goods, then the struggling Tata industry would get no protection and the Bombay mills represented by my Honourable friend, Mr. Mody, here would have equally suffered. So it was in the nature of a bargain. It was no foundation for a preferential policy. Sir, as the Honourable Sir Joseph Bore told the House, our fiscal policy has always been free trade, with protection to such industries as are suitable to this country and will be of benefit to the country. As regards the Supplementary Agreement in respect of iron and steel, a suggestion which was made or rather a fear was expressed on this side of the House that the policy of this Trade Agreement was to relegate India for ever or at least for as long as it can be managed, to a position where it will export raw materials and manufacture unfinished crude articles, to be finished by the manufacturers of Britain. Dr. Meek repudiated that suggestion, but let me refer here

to the speech of Mr. Baldwin, the Leader of the British Delegation. Let us see what he says. On page 52 of the Report he says:

"If the industrial associations in the various Empire countries will take the initiative, as some of them are already doing, in dividing up Empire markets, so that each country may concentrate on those branches of production for these markets for which it is specially fitted by its local conditions, they open up the way for their Governments to help them effectively by giving substantial preferences in those classes of goods which by agreement are not being manufactured by their own people."

I say that is the aim in view so far as India is concerned. It is not the aim which they have in view now for the first time, but it is the aim which they had in view for a long time indeed. So, the fears which have been expressed on this side of the House in connection with the Agreement regarding iron and steel are not at all unfounded. And, Sir, the very formidable list of articles on which we have to give preference shows clearly which way the wind blows. That is the real drift of the economic policy of Great Britain regarding India.

Dr. Ziauddin Ahmad (United Provinces Southern Divisions: Muhammadan Rural): May I just say one word, Sir? On page 192 of the report on Sea-borne Trade for September, 1932, we find that in the case of pig-iron and pig-lead, though our export to United Kingdom has increased, our export, taking all the countries together, has substantially diminished.

Sir Abdur Rahim: Then, Dr. Meek, in dealing with the Import Duties Act, rightly points out that it has been in force for eight months and he has suggested, though in a somewhat bated breath, that during these eight months India has done better business with England than before. Sir, whatever might have been the state of export to England during those eight months, I wish to point out to the House what Sir George Schuster says as to what has been the economic position as a whole so far as India is concerned during the six months before last September when he was making his speech at the Ottawa Conference. He points out that India always had a favourable balance of trade, that this was absolutely necessary having regard to the fact that India is a debtor country heavily in debts to England and whose debt service is one of the two mill-stones round her neck, the other being the military expenditure. Then he states:

"Yet we are now faced with a heavy unfavourable balance of trade."

That is his statement and, I am sure, the Government will not dispute it.

Sir, it has been admitted by Sir Joseph Bore that the 15th November is no longer a crucial date and, from newspapers, it appears that England is preparing for a World Conference on the economic and financial position to find out how to regulate the prices and how to regulate International Currency. Sir, the British Government have fully realised, as the Prime Minister said only the other day, that it is essential if the world is to recover economically that this must be done by agreement among all the nations. Empire nations alone will not suffice, but there must be an agreement among all the nations. And who can tell what the outcome of such a conference will be? Is it to be suggested for one moment that this Trade Agreement between India and England alone will stand? Of course, India is helpless; she can be tied down to this Agreement, however injurious it may be to her economic interests. That is another matter, but the chances are that the World Conference, when it comes

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about and when after discussing matters it comes to an agreed conclusion, it may very largely alter the Ottawa Agreement. There may be no question then merely of preferences between the countries within the Empire or the most-favoured-nations treaties. It is at the World Conference, Sir, the solution must be found and, I think, it would be folly on our part, before we really know what the actual world situation is and what will be the outcome of that Conference, to enter hastily into an Agreement like this. Mr. Chetty in his eloquent and able speech omitted to point out what will be the effect of these preferences on the revenues of the Government. Sir, all those who have dealt with the matter think that there must be a substantial addition to the Customs duties in consequence of this Agreement, in which case the consumers have to suffer or lowering of tariffs in which case the revenues will suffer. Sir, in dealing with trade matters, one is often apt to overlook the interest of the consumers, but it is the consumers who after all form the great majority of the people. What will be the effect on the consumers? The effect on the consumers is bound to be that there will be rise in prices and to that extent the public of India is bound to suffer. I believe every Honourable Member has read with care the speeches delivered by Sir George Schuster and by Sir Henry Strakosch. Reading Sir George Schuster's speech, it seems to me that he at least was not an enthusiastic supporter of such an Agreement. Nowhere in his speech does he say in so many words that it would improve the financial position of India or improve the economic lot of the people.

The Honourable Sir Alan Parsons (Finance Member): As Sir George Schuster is not here, may I explain that the speech to which my Honourable friend is referring was made long before this Agreement was reached.

Sir Abdur Rahim: Just so and I dare say, when Sir George Schuster comes back to India, he will thoroughly be convinced of the soundness of this Agreement. I have not the least doubt about that. Sir George Schuster was then speaking in a freer atmosphere and he had to tell the British people what the financial and economic position of the poor wretched people of this country was. Here his lips will be sealed. Sir, only one word more about the suggested Tariff Board enquiry. The Fiscal Commission said that there ought to be an enquiry by the Tariff Board if new preferences were proposed. I wish also to draw attention of the House just to one passage in the Report of my Honourable friend, Mr. Chetty, where he says that they also are conscious that this question must be decided by the Legislature in accordance with Indian opinion. Sir, if the question is to be decided in accordance with Indian opinion, where is then the case for this Agreement? Is it not a fact that Indian opinion, as has been expressed so far, is entirely opposed to this Agreement. It is so unanimous and so strong that even the Honourable Sir Joseph Bore had to suggest bias and prejudice and Mr. Chetty called it dishonest. Sir, if Indian opinion is dishonest, we are all dishonest.

Mr. B. K. Shanmukham Chetty: I did not say Indian opinion was dishonest. What I said was that the figures given by a particular gentleman were dishonest and I still maintain that view.

Sir Abdur Rahim: The particular Professor in question was only voicing Indian opinion. He is only one of the many men who have condemned

this Agreement. In conclusion, I will only say this, if Government have any respect for their pledges and for the convention which they themselves have been party to, then they must leave this question to be decided entirely by the Legislature in accordance with public opinion. Will not Mr. Chetty vote for this? All that we want is, we want to consult public opinion as far as we can. Is Mr. Chetty going to vote against an enquiry by the Tariff Board or by a Committee of this House? I submit, the Government ought to support one of the amendments and that is the least they can do. (Applause.)

The Honourable Sir Alan Parsons: Sir, if I intervene in this debate it is not to retrace ground which has already been fully covered by my Honourable Colleague, the Commerce Member, and by Mr. Chetty, or to argue on the benefits which India will receive from a ratification of this Agreement, convinced though I am that the benefits are large, are so substantial that there should be no hesitation in any quarter of the House in ratifying the Agreement. If I intervene now, it is to deal with one definite issue, an issue of very considerable importance, an issue which was raised among others by my Honourable friend, Sir Abdur Rahim, and I think also my old friend, Mr. Rangachariar, whom we are all glad to see here again. They have attempted to impale Government on the horns of a dilemma, a dilemma which, I think, can fairly be stated in the following way. If the preferences given to Great Britain are given by lowering our existing tariffs on British goods, the Customs revenue will suffer a severe decline which we cannot afford, and which will involve additional taxation in order to balance our Budget. If, on the other hand, preferences are given by raising the tariffs on non-British goods, the cost of these goods to the consumer, already over-burdened in this country, will be materially raised, the consumer will suffer and there is no reason why he should be made to suffer.

Now, I think it is clear from the speech which Sir George Schuster made at Ottawa to which my Honourable friend referred and with which, if I may say so, the Government of India are in entire agreement, that the interests of the consumer are not absent from the minds of those on these Benches and I can assure the House that when they see the detailed proposals which will be laid before them in the Bill, if the House passes my Honourable Colleague's motion, they will see that those interests have been carefully borne in mind. Equally, and here I speak perhaps with even more personal conviction, we are unable to overlook the possible effect of any tariff changes on our revenues. We are not in a position to afford a large reduction in our Customs receipts. But it does not follow from that that we are in any way on the horns of a dilemma. Neither my Honourable friend, Sir Abdur Rahim, nor my Honourable friend, Mr. Jadhav, nor Mr. Aggarwal nor even Mr. Rangachariar appeared to recognise that there is a third course. It is possible not solely to lower your tariffs or solely to raise them; it is possible to give this ten per cent. preference partly by a reduction of the present duty on British goods and partly by increasing the duties on non-British goods. It is, of course, impossible to give absolutely exact figures of the effect on our revenues of the proposals which will, if my Honourable Colleague is permitted by the House to introduce his Bill by passing this Resolution, be laid before the House. I can only say that I have had it worked out by the experts of the Central Board of Revenue as carefully as possible.

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and based on the estimates of the current year it is as follows. If the duties we propose had been in force throughout this year, the reduction in our Customs revenue would have been entirely unsubstantial; I am unable to say quite definitely whether in the estimates we should have had a reduction of three lakhs or an increase of three lakhs. Therefore, I think the House may take it on the basis of as fair and as honest an estimate as we can make, that, in considering this question, they need not consider that ratification is likely to affect our revenues adversely.

Nor, if I may say so, do I see any likelihood myself that it will in any way adversely affect the consumer. I should like to deal at a little greater length with this matter. It was raised, I understand, by my Honourable friend, Dr. Ziauddin Ahmad, at a time when I was unfortunately not in the House owing to urgent business elsewhere. I understand, he asked what would be, in the opinion of Government, the effect of this Agreement on commodity prices. I know he will agree with me in realising the difficulty of analysing the exact effect of an Agreement of this kind on commodity prices in this country, but as far as the consumer is concerned,—I am speaking largely of the agriculturist—to the extent to which the preferences which we propose to give to British goods are given by lowering the present duties, I think we may assume that there will be a tendency for the prices of those imported goods to fall. On the other hand the preferences which Great Britain gives to India under the terms of the proposed Agreement, if they do what they are devised to do, and increase the demand for India's produce, are likely to have a tendency to raise the prices of that produce in this country. Therefore, in my opinion the effect of this Agreement will be exactly what Sir George Schuster was arguing for in the speech to which reference has been made in which he pointed out how the fall in the prices of the primary products of this country had hit the agriculturist and that he had been further hit by the fact that the fall in the prices of the articles which he ordinarily has to buy had been much less than the fall in the prices of the produce which he has to sell. In my opinion, the effect of this Agreement, so far as it has any effect in an alteration of the price level, will be exactly in the direction of remedying that defect in our present economic structure.

Seth Haji Abdoola Haroon (Sind: Muhammadan Rural): Sir, I rise to support the Resolution moved by the Honourable the Commerce Member. I am not supporting the Resolution because I have already signed the Agreement. I have seen great opposition to it from different quarters and for the last three days, I have been hearing many arguments in opposition to it. But, after hearing them, I am glad to say that they did not convince me that I have done any wrong to my country. Sir, I will not repeat each and every item of the Agreement as my friend, Mr. Chetty, has already done that very clearly. But so far as the opposition from this side of the House is concerned, they have two arguments. One is that the Delegation was not of a representative character and, secondly, that we have granted preference. I find that they object to the word "preference". Sir, regarding the Delegation, I will say that I have been there and I have seen that all the Dominions sent their Delegations which consisted of officials or Ministers or their departmental representatives. I know that those Dominions have Self-Government and are responsible to the people. But in the present circumstances and the constitution of

the Government of India, there could not have been a better Delegation than the one which was sent. If, like the Dominions, the Government of India had sent only their officials, there would have been great opposition. So the Government of India, in my opinion, did their best in selecting their Delegation. They might have been officials at one time, but they are now retired and no longer in Government service and they know the subject perfectly well. Sir Atul Chatterjee, who acted as the High Commissioner for India, knows India's trade position perfectly well and the late Commerce Member, Sir George Rainy, also knows India's trade position very well. Side by side they appointed Sir Padamji Ginwala who had acted for seven years as Chairman of the Tariff Board. Besides that, Government selected two non-official elected Members from the Assembly, two big opposite parties, one being myself and the other my friend, Mr. Chetty. In the present constitution, I do not see how the Government of India could have sent a better Delegation than the one they did. Sir, just now the Leader of my Party said that the Indian Delegation were packed in London and they had not the same facility as the other Dominions had. Sir, all the Delegates who had been appointed at that time happened to be in London and I do not think they would have been able to come here and go back for the Conference in time. Therefore, we met there and discussed all the points for seven weeks.

Now, I come to the amendments. These amendments do not seek to throw out the Agreement, but they want to have a Committee to discuss whether the Agreement has done any harm to India or not, and on whose report they will be able to come to a proper decision. Sir, I may say at once that in spite of so much opposition, during the last three weeks, no one has been able to point to any special Article in the Agreement to show that we have neglected India's interests. Of course I find Mr. Jadhav, supported by Diwan Bahadur Rangachariar, saying that the aluminium and soap industries will suffer by this Agreement. It may be so; I cannot deny that and I cannot say that these might not suffer; but when the Finance Bill comes before the House and when you appoint a Select Committee, you have to bring all these points, side by side, from whatever quarter these may come; we have to consider all that and if we find that in any way India is suffering from giving these preferences, we might delete those items from preference or we might tell the British Government that according to the Agreement we have already made with you, if in any way any Indian industry is to suffer, we have a right to cancel that item

Mr. K. Ahmed (Rajshahi Division: Muhammadan Rural): So you are supporting the amendment?

Seth Haji Abdoola Haroon: I have already told my friend that I am supporting the Resolution which has been moved by the Honourable the Commerce Member.

Mr. K. Ahmed: How are you going to verify the facts and figures that you want to consider now?

Seth Haji Abdoola Haroon: Today I find that only on account of the word "preference" the whole country and the whole Assembly are terrified at the word.

Mr. Gaya Prasad Singh (Muzaffarpur cum Champaran: Non-Muhammadan): Then you realise that the whole country is against you?

Seth Haji Abdoola Haroon: Only in the name; but without expressing preference on what articles. At present, whatever opposition is coming comes from a quarter for which something already has been said in this House. I do not want to repeat it. But I must say that those, who are opposing this Agreement, are not interested much in this Agreement. I want to say that this is a two-sided Agreement. One is that some goods are imported from the United Kingdom on which we have given preference. Every one is opposing the word "preference" and why we have given that, but they are not looking to the other side of the Agreement in which we also got a preference in the United Kingdom, protection. . .

An Honourable Member: Nothing.

Seth Haji Abdoola Haroon: Of course you may say, it is nothing to you; but I must tell you that the cultivators and the producers, who are interested in this subject, have no organisation or voice to support the Agreement. If you go through the side of export, you will find that preference, which we got in the Agreement for Indian exports, has very little interest for the Bombay people. If you go through the list, you will find rice. There is some preference which might be understood in Burma or perhaps in Bengal—no, in Bihar . . .

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): Bengal, not Bihar.

Seth Haji Abdoola Haroon: There is the famous Patna rice: of course you may neglect it, because you are not representing the rice merchants here and, therefore, you are not understanding the point. Then we find all sorts of things, if we go through the list. Do you not think India at present is improving in the oil industry and, lately, the Agricultural Department has already formed an oil committee to increase the industry in India; but, of course, you are not interested much in that and the industry itself is not represented and so they have not agitated against those who are against the Agreement itself. About tea, everything has been said. You may say, as regards manufactured jute, that this belongs to European capital in Calcutta and that there is very little of Indian capital in it. But £2½ millions worth of manufactured jute are imported into the United Kingdom; and, while I was in London, I have seen the Dundee interests trying their level best that we should not get that 20 per cent. preference which is already imposed by the United Kingdom for the import of jute bags and cloth; they want that India also should be put to a 20 per cent. duty on jute cloth and gummies. Of course you cannot consider that point also although the value of these goods are worth £2½ millions. There are many other things besides, but I do not want to take up your time over them; but I must say that as regards these oil seeds produced in Bihar and groundnuts produced in Madras, the chief thing is that the whole of the export trade of India is mostly in European hands . . .

Dr. Ziauddin Ahmad: May I rise to point out that during the last six months this tariff has been in operation, our export to the United Kingdom has substantially increased from 22,000 to 96,000, but our export as a whole has diminished from 1,115,000 to 1,028,000 only?

Mr. R. K. Shanmukham Chetty: The preference has not yet come into operation.

Dr. Ziauddin Ahmad: Then no protection is needed.

Seth Haji Abdoola Haroon: If my friend, Dr. Ziauddin, is putting forward any figures, I have not understood them at all. But you know already that at present there is the depression in trade and side by side the prices of the commodities have gone down and it may be so as Dr. Ziauddin has said. But you are not at all thinking about your exports to other countries. You say that we are Indians, we have got our raw materials, we have got our raw produce and so the United Kingdom or any foreign country is bound to take it; you may be right in saying so a few years back; but today the competition, all over the world, is very keen and every country is trying to produce every sort of thing. Therefore you should not be indifferent to your export; you have to consider that point very seriously. It is said that India is exporting very little percentage to the United Kingdom. We are exporting large quantities of raw materials to other countries, and there is no doubt about it.

4 P.M. I find that today our total exports to the United Kingdom and the Dominions come to nearly 37 per cent. and 63 per cent. to other foreign countries. The position of India today is the same as that of the other Dominions like Australia or Canada. Whatever goods Canada and Australia are producing are not all consumed in the United Kingdom. Hardly 25 per cent. is consumed by the United Kingdom, and, for the balance of 75 per cent., they have to look to foreign markets. Even under such circumstances these Dominions have thought it advisable to enter into Agreements with the Britishers, so that they might improve their exports to the United Kingdom. If Honourable Members do not want to ratify this Agreement, if the Assembly wants to throw out this Agreement, if the country is not in favour of this Agreement, I am afraid they are playing with fire, because if, on the 37 per cent. of our exports to the United Kingdom and the Dominions, they put, according to their Tariff Act, say 20 or 15 or even 10 per cent. duty, what will be the effect on our export trade? This is a matter which we should seriously consider before attempting to throw out this Agreement. No doubt, Professors of Economics can make prophecies that by this Agreement India will not gain anything, that India will have to lose heavily, and so on and so forth. In support of their arguments, they have also adduced certain figures, but, as a businessman, I cannot say what effect, according to the figures quoted by these economists, there will be if this Agreement is accepted. Sir, I am always very cautious. The world is changing so rapidly that nobody can afford to indulge in any prophecy. During the last three years we have been reading a good many prophecies by many economists and writers in England, Germany and America and almost every one of them said that on account of President Hoover's Moratorium or the Lausanne Conference or the Ottawa Conference business will increase enormously and prices will go up, but what is our own experience? All these prophecies have proved false. At the same time, I do not, for one moment, say that if we pass this Ottawa Agreement, rivers of milk or honey will flow in our country: nothing of the sort; but I would only ask Honourable Members, that before they throw out this Agreement, to worry seriously and calmly consider the effect of their action, and that they should not throw out this Agreement merely because of a certain agitation that has been set up by some theoretical economists. If Honourable

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Members will go through the Agreement carefully, they will see what India has gained and what she has lost; it will be seen from the Agreement that we have given preference for 17 million pounds worth of goods imported into India, while we have got preference for 42 million pounds worth of goods which we are exporting to the United Kingdom, and I do not know why Honourable Members are not satisfied even after gaining so much. I am sorry that nobody has pointed out in what way India will suffer industrially or in other ways by the acceptance of this Agreement. With these words I support the Resolution.

Mr. K. P. Thampan (West Coast and Nilgiris: Non-Muhammadan Rural): Sir, I wish to speak a few words in support of the amendment moved by my friend, Dr. Ziauddin Ahmad, and so ably supported by others on this side. In doing so, Sir, I wish to confine myself to the more salient aspects of the question without entering into any details. Sir, I must confess I am unequal to the task of doing any justice to the several momentous issues involved in this Resolution, but I am struck with one thing, which I consider to be unique. It is very significant that throughout the length and breadth of this country, from Cape Comorin to the Himalayas, and from Karachi to Calcutta, there is not one single individual who has approved of this Agreement, nor do I know of any public body or association or newspaper which has supported it. It is, therefore, a very onerous task for us, laymen Members of the Assembly, to be called upon to give our votes. That is one of the main reasons why I suggest that this matter should be referred to a Committee composed of Members of this Assembly and of experts who are competent to advise us.

Now, let us consider why this Ottawa Conference was called. After the war, conditions in England became intolerable. There was heavy adverse balance of trade, the economic distress became very acute, and the national budget had to be balanced. The unemployment question also assumed such prominence that remedies had to be devised for all these. Conditions in India at present are precisely similar to those that obtained in England. Our adverse balance of trade is assuming large proportions. According to the statement made by the Honourable Sir George Schuster and published in page 66 of the Report, during the first three months of the financial year, there was an unfavourable balance of nearly seven crores of rupees in trade. Therefore, if we go on the basis of that period, we are bound to be faced with a deficit of nearly 28 crores of rupees in trade balance as compared with a normal favourable balance of 80 crores. Our annual commitment to England is nearly 80 million pounds, and over and above that, we want for other payments another 7½ millions or a total of roughly 50 crores. This amount used to be practically made up by the increase of exports over imports. The prospect cannot be gloomier. Therefore, our viewpoint and the sole criterion in judging the merits of this Agreement as has been that of the United Kingdom should be this—what is it that we stand to gain? So far as England is concerned, she has decidedly gained some advantage. The Liberal Ministers in their letter of resignation admit that, so far as England is concerned in the Agreement with India, they have gained something. They say: "Certain advantages have been secured in India", but I ask, what is the advantage that India has gained? The report is significantly silent on that point.

Sir, if effect is given to the proposals contained in this Agreement, it is anticipated that there will be a reduction of about Rs. three crores in the Customs receipts for the ensuing year. I would like to know how that is going to be made good. It must be made good either by fresh taxation or by the imposition of additional tariffs on foreign imports. India is already heavily taxed, and fresh taxation is out of the question. The ryots are in such a deplorable plight that their very existence has become impossible. The commodity prices of export articles have practically been reduced to half, while the index number of prices of import articles has come down only by 13 per cent. In other words, the ryot gets only half the price on his produce while he has to pay almost the same price for his elementary wants. As a matter of fact, I know even the richer class of ryots in the villages find it difficult to pay the land assessment and other taxes with their income. What means have they for their food and for the purchase of the other necessities of life? Under such circumstances it would be suicidal to make him to pay more for his ordinary wants by improving higher tariffs. The share of the United Kingdom in our imports is only 35.5 of the total. The rest is in the hands of foreign countries. Is it worth while in the interests of the consumer and the welfare of the country to estrange them? Is it that we should decide. In my humble opinion, it is impossible to realise at present the economic repercussions such a policy would bring in its train and the effects of retaliation if they, in their turn to safeguard their own interests, decide to adopt. We cannot lose sight of another aspect of the question, viz., that this preferential tariff would jeopardise the growth of our infant industries. Of course the case of the two of the most important industries, cotton and steel, have been held over, but there are many minor industries, such as the manufacture of soaps, paper, chemicals, drugs, aluminium and other metals. The protection, that is now given to these and other industries, will be practically nugatory. I, therefore, feel that we must think twice before we ratify this Agreement.

One word more and I have done. One vital point has been left out. In page 68 of the Report, there is a statement made by Sir Henry Strakosch, in which he says categorically:

"And finally any system of Empire preference would be quite ineffective if sterling prices were to fall below their present level."

He goes on to say in the next paragraph:

"The conclusion to be drawn from this cursory survey is clearly that to make the aims of the Ottawa Conference attainable it is indispensable."

—Sir, I should like that due attention should be paid to the following part of his statement—

"—that pending the re-establishment of a stable international monetary standard the Empire countries should, as far as possible, adopt a common standard of value and that the wholesale level of prices in terms of that common standard should be raised to a point at which an equilibrium is re-established between costs and that level of prices."

This, Sir, I consider, is the crux of the question, and, no attempt seems to have been made to its solution. Of course, I find in the Summary of Proceedings that was issued to us that the importance of this question was recognised, but, beyond a pious wish, no definite decision was arrived

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at. Without a stable currency, I am sure, no results can be achieved, and I consider that the whole question has to be gone into by people who are competent to do so and advise us in the matter.

Mr. B. O. Burt (Government of India: Nominated Official): With the permission of the House I should like to offer a few remarks on the Ottawa Agreement as it affects our agriculture and as it affects our agriculturists. The last speaker referred to our adverse trade balance. Indeed several other speakers referred to our adverse trade balance, but I do not think that it was mentioned that the chief cause is the contraction of our exports. Now, Sir, the contraction of India's exports of agricultural produce is a thing which has been giving us anxiety for some years. It is also a matter which has been causing anxiety throughout the world, and one of the great objects at Ottawa was to see whether it was possible to do anything within the Empire to promote the purchases by the United Kingdom of a larger portion of her requirements of agricultural and other natural products within the Empire.

Now, viewed purely as a business proposition, it seems to me that faced with a fall in our exports the first thing to do was to see whether we could not improve our trade with our biggest single customer. A great deal has been made of the fact that Great Britain takes only something like 25 per cent. of our exports. In actual point of fact, the figures were 22 per cent. five years ago, and 28 per cent. for the last year for which we have figures. She has been taking a steadily increasing share, and, in any case, she is the biggest single customer we have. As a purely business proposition and from the point of view of our primary producers, it was a sound business to see whether we could not develop that market. There was a note of pessimism this morning from one of the two speakers on the opposite benches, who doubted our capacity to supply any additional market which we may get. Several speakers pointed out, quite rightly, that a mere diversion of trade from one market to another cannot benefit us anything. That point was before the Indian Delegation throughout; we examined the proportion of our exports taken by each country for each of our principal commodities. We examined the proportion taken by the United Kingdom from India and from other countries in the Empire, and from foreign countries. We did that in detail for every one of the commodities with which we were concerned. Sir, the Ottawa Agreement represents a definite effort to get a better export market for those commodities where we believe we have a large reserve capacity of production. Linseed was mentioned this morning; it is one of the clearest cases of all. But we know that in regard to all our primary products, India has a large reserve capacity. The criticism which has been made in the Provincial Councils, during the last two years, of the work of agricultural departments, has been that they have been increasing production without increasing markets. And, Sir, the cry of the agriculturist is that he cannot sell his products,—why he should produce more wheat, why he should produce more groundnuts, why he should produce more linseed when he cannot sell them. And we have seen the contraction in our exports of some of our most valuable products. Now, Sir, this Agreement is an attempt to rectify that.

Mr. K. Ahmed: How will you produce larger quantity if the Agreement is confirmed by the Assembly?

Mr. B. O. Burt: I will come to that later. Before speaking about one or two agricultural commodities, I would like to make one other point. I hold, as strongly as any speaker on the opposite benches, that the proper development of Indian agriculture involves the development of our industries and especially of those industries which utilise agricultural products. If we look at the preferences granted to India by the United Kingdom under the Ottawa Agreement, what do we find? We find that whereas on primary products the usual preference is ten per cent., on manufactured goods it is 15, 20 and in some cases even higher. Jute, for example, being an Indian monopoly, is on the free list in the United Kingdom, but Jute manufactures get a preference of 20 per cent. Oil-seeds get a preference of ten per cent., Vegetable oils, the manufactured product, a preference of 15 per cent. Hides and skins, raw, are free. Tanned hides and skins, the manufactured products, receive a preference of 15 per cent. Cotton is free. Cotton manufactures from foreign countries pay a duty of 20 per cent. in the United Kingdom, but ours are duty free, and so on. Carpets and rugs and other manufactures get a preference of 20 per cent. I think it is of the greatest importance that the House should realise the real value of clause I of the Agreement. Clause I undertakes that all our produces, with the exception of a small list of articles subject to duties of customs and excise, i.e., such items, as tobacco, will receive free entry into the United Kingdom. Clause I, Sir, includes our manufactures and what have we been asked to give in exchange—only a preference. We have not given free entry to anything. In no case have we even guaranteed a rate of duty on foreign goods. That, Sir, seems to me to entirely dispose of the view that the Agreement is meant to fetter India's industrial development. Had that been the intention, the balance of preference would have been exactly the other way about. Now, Sir, one of the items on which we have a special preference is wheat. Wheat was not subject to duty under the Import Duties Act. It has been free. It is free at the present moment. It will be free until the new duty is put on as a result of the Ottawa Agreements between England with India and the Dominions. Wheat, Sir, is a commodity on which the United Kingdom reluctantly but eventually put on a duty in order to give a preference to the Dominions and to India. The preference is two shillings per quarter which, I may remind the House, is roughly equivalent to four annas per railway maund. We all know that four annas per maund makes all the difference to the grower. It also may make all the difference when competition is keen and decide whether you can get into the export market or not. The Delegation say in their Report that this is a preference which, for the present, affects the Dominions more immediately than India. That is true. So far as we are concerned, this is a preference which is definitely intended to protect our future interests. The House is familiar with the data about wheat and I will not attempt to inflict a number of figures on it. But just to get things in a right perspective, perhaps I may mention the fact that while the Empire wheat production is about 28 million tons. India's production is in the neighbourhood of nine million tons. In a good year, we produce about ten or even 10½ million tons. That, in itself, is a considerable advance on our production even ten years ago. Unlike the two great wheat-producing

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Dominions, we consume something like 90 or 95 per cent. of our wheat and our exportable surplus is variable. But I notice that in 1924-25 when we had a little more than an average good crop, and when world conditions were not so disturbed as at present, we exported over a million tons, practically the whole of which went to England. Now, England's capacity for importing wheat is over five million tons, indeed 5½ million tons is the average import into the United Kingdom, and there is no reason why India should not in the future have a substantial share in that trade. It is important that we should get that share. At present the world is over full of wheat. Prices are depressed and Indian prices are out of exporting parity, because our consuming market is so large compared to our total production. But that position will not continue indefinitely, and we know that there are cycles in trade and once world prices rise, it is important that India should be able to export wheat on level terms with the rest of the Empire.

Dr. Ziauddin Ahmad: Will India be able to compete with Australia and Canada?

Mr. B. C. Burt: I am glad the Honourable Member reminded me of that point. The opinion I formed at Ottawa was that so far as permanent and profitable production is concerned, Australia and Canada will be satisfied with no less a figure than would satisfy our own zamindars in the Punjab and the United Provinces. I find that the general opinion amongst zamindars is that Rs. 3 per maund is about the limit and when wheat falls below that, they feel the pinch. The figures which were given to us show that the rates at which farmers can continue to produce wheat in Canada and Australia run very close indeed to ours—the difference is only an anna or two. The question may be asked, whether we shall not continue to eat most of our wheat. We have to bear in mind that in Sind we have a large area coming under perennial irrigation and especially if you take into consideration some of the new canal areas in the Punjab, which are not yet fully developed, that will give us at least an additional two million acres of wheat and there is likely to be surplus of a million tons. (Mr. K. Ahmed: "That will be after six months.") When that time comes, we should be able to export wheat on level terms with Canada and Australia and the rest of the Empire and the preference of four annas a maund should serve substantially to help us in that direction.

I would like to mention another primary product, one, on which we have not got a preference and that is cotton. There has been a certain amount of misunderstanding about the position here. It has been stated for example that India's own mills will require the whole of her "long" staple cotton. That statement, as it stands, is true, but the implication which has been drawn from it is not correct. India has an exportable surplus of certain kinds of medium staple cotton which the United Kingdom can use. That was definitely admitted to us by the Lancashire cotton trade representatives with whom we discussed the matter. I think, Sir, if we classify "cotton" as short, medium and long staple cotton, as is done now by many people in the United Kingdom, we shall see the position more clearly. Of the short staple cotton we have an abundant, an over-abundant, supply and a very large surplus which we must export. Of that, the United

Kingdom takes a certain amount, but it is practically a fixed amount, and it varies very little. Then we come to the very big class medium—1½th of an inch in staple up to an inch or even an inch and an eighth—and then to the long staple cotton, which is generally assumed to begin with an inch and an eighth. Of the longest staple cotton, we very definitely have a shortage, but of medium staple cotton a surplus. For example, the Punjab produces something like 250,000 to 300,000 bales of Punjab American cotton. That cotton in a normal year is largely an export cotton. At least a half of it, and sometimes three-quarters, is exported. Another cotton similar to it is Dharwar-American, with a production of 150,000 bales a year. Then we come to the Tinnevely and Karunganni cottons in Madras. Those, again, are largely export cottons. These are medium staple cottons and they find a place both in Europe and England. Our production of such cotton is steadily increasing. Then there are other cottons of which our supply is not always adequate.

Diwan Bahadur T. Rangachariar: May I ask the Honourable Member, Sir, if you will permit me, this question? If England takes largely the short staple cotton, will there not be a competition between the manufacturer of goods in Lancashire and India?

Mr. B. C. Burt: What I am suggesting, Sir, is that she should take more medium staple cotton and use it for cloth intended for those markets in which India does not compete.

There is one more point, and that is that the figures published in Messrs. Vakil and Munshi's pamphlet regarding cotton imports are misleading, because they do not go quite far enough back. The four years' figures quoted would lead one to the conclusion that India is steadily importing more and more foreign cotton. Well, if we go two years further back than the years taken by Messrs. Vakil and Munshi, we find that there was an import of 474,000 bales of cotton in 1926-27, which is as high as anything which has occurred in any year except the very last. Of that, nearly the whole was American cotton. It was not long staple but medium, and it was taken because there was a singularly short crop of medium cotton. Sir, I have spent many years on attempts to improve Indian cotton production and I will admit at once that the best market for Indian cotton is in the Indian mills. That is the Indian cotton growers' safest market at all times and it is of the greatest importance that our cotton production should be correctly balanced, so that our mills may get the supplies that they need; but, even looking at the matter from their point of view, instead of from that of the cotton growers, it is essential that we should have in an average year an exportable surplus if the mills are to have even in a bad year the supplies of medium staple cotton which they require. It is not always that a bad crop in India corresponds to a bumper crop with low prices in America. Now I shall mention one more point and that very briefly indeed. Reference has already been made to our oilseeds and Mr. Chetty referred to our vegetable oils, and I, Sir, would here refer to the great advantage of the preference we have for groundnuts. The groundnut crop is one, the production of which had steadily increased in India until two years ago and then there was a definite check due to the fall in prices. It is a crop which the agriculturist likes, because it is a good rotation crop, that is, it increases the yield of the crop which follows it, and it

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is of great economic value to the country. Now we are in close competition with other countries in the production of groundnuts. We are the world's biggest single producer, but we only account for roughly 55 per cent. of the world's production. In the United Kingdom, we are in close competition with groundnuts from West Africa, both from British Colonies and from French territory, and there is a very substantial foreign market to capture. Further, in regard to the preference on groundnuts and also on castor and the free entry which we have from our other oil-seeds, it is necessary to remember that the prices of all these oilseeds react on each other and that if we were to fail to get the preferences which the Colonial producers receive, we should be hopelessly out of the running in the United Kingdom market. (Loud Applause.)

Mr. D. K. Lahiri Chaudhury (Bengal: Landholders): Mr. President, this is a most historical occasion when I find great enthusiasm in the Treasury Benches for making a number of speeches and when I find my European friends supporting so whole-heartedly the speech which was made by my Honourable and esteemed friend, Mr. Shanmukham Chetty. It was really a most interesting speech which was delivered by my friend, Mr. Chetty, especially where he wanted to develop the arguments in favour of expansion of trade and not divergence of trade which he is bound to explain as a member of the Delegation which went to Ottawa. Now, when he was making out his case, whether, for want of time or something else I do not know, he could not at all develop whether this Agreement will really help India to her expansion of trade or divergence of trade. I was watching with keen interest as to how much applause he got from this side of the House, and I found that of the cheers which he received, not a single one came from this side, but that all the cheers were from the European Group and the Treasury Benches. (An Honourable Member: "Shame, shame.") Thank you, Mr. James, who calls for shame. So, as a man, who claims really to have only a little commonsense and not much of experience in the field of economics like the learned Professors mentioned by my friend, Mr. Chetty, what I want to say is that the question which has been dealt with on the floor of this House is of such great importance that any hasty decision will be disastrous to this country. Now, there is a Bengali proverb which says:

"Mayer chetye baidy bhale laktye baidy dain."

It means, whenever you find that any lady's love for the child is more than that of the mother, that lady is regarded to be a witch. (Laughter.) The same is the case with Mr. James and his colleagues who pose to be the friends, greater friends of this country than ourselves in this matter. (Laughter.) Now I come to my Honourable friend, Haji Abdoela Haroon, who may or may not have the same experience of developing the industries as Mr. Chetty has, but what I clearly think is that if the arguments in favour of the motion are those used a few minutes back by my friend, in his most inaugural address in this House, and the manner of their presentation is such as he adopted, and if the same method was adopted in putting arguments forward to the Ottawa Conference, then I do not know how much Mr. Stanley Baldwin or my friend, Mr. Chetty, or any other member of the Delegations from any

other Dominions would have appreciated the arguments put forward. Still my friends over there on the Treasury Benches say that the representation on the Delegation to Ottawa was marvellous and was of a truly representative character. My friend, Mr. Chetty, also in his speech referred to the report of the Federation of Chambers of Commerce when they complained of the personnel of the Delegation which was not well represented. Sir, this is a fact which can not be denied and this fact has amply been proved by a colleague of Mr. Chetty on the floor of the House whose knowledge of these things is beyond question.

As regards raw cotton, I will just like to mention a few facts. I have received some opinions from the President of the Bengal National Chamber of Commerce. He is not a learned Professor, but he is a self-made man and has built up his character by dint of his own efforts and experience. His name is Nalini Ranjan Sarkar. He is a man who commands the respect of every Bengali. Let me read, Sir, a few portions from his note which I have only just received. I am sure, his remarks will not be challenged either by my friend, Mr. Chetty, or by the Members on the Treasury Benches. He says:

"The underlying assumption of Imperial Preference, that Empire products, both primary and secondary, could in fact be deflected from their present foreign market to Empire without any economic loss being entailed, ignores many important factors.

In the first place, Indian cotton, being of very short staple, is unsuitable for Lancashire. The change of organisation that would be necessary in order to utilise it would involve heavy expenditure and would also create considerable difficulties in Britain's export market for cotton goods. The inferior cotton goods that would have to be manufactured out of Indian short-stapled raw cotton would have to be sold exclusively in markets like India and China. By selling to Lancashire and encouraging her to use cheaper Indian and inferior staple cotton, we would really be also encouraging her to weave lower counts and compete more largely with Indian cotton mills. It would in effect widen the range of competition between British and Indian cotton goods. It would be suicidal. Japanese competition with India is largely made possible by the very use of cheaper Indian raw cotton of shorter staple. At present, in the lower counts and in coarser goods competition from British is not very keen; but if, by a tariff preference, she were encouraged to use inferior cotton and make a larger proportion of coarser goods, we shall soon be witnessing increased competition from that direction."

It is a very interesting thing and, at the same time, it is a very cogent argument on behalf of the raw cotton. Further on, he goes on to say:

"Another important question is whether Indian raw cotton is in need of a larger market in Britain."

That is a serious thing to be considered. Then he gives the figures which are very interesting. With your permission, Sir, I shall take the liberty of quoting a few figures:

"Consumption of Indian Raw Cotton in Indian Mills.

	(In bales of 400 lbs.).
1928-29	1·764 million.
1929-30	2·248 "
1930-31	2·266 "
1931-32	2·341 "

No doubt for long years to come Indian raw cotton would have to depend largely upon export markets. In 1930-31 nearly twice as much Indian cotton was exported as was used in the Indian mills. But the possibility of Britain taking in the immediate future anything more than a very small proportion of our exports of raw cotton should be heavily discounted."

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LEGISLATIVE ASSEMBLY.

[9TH NOVEMBER 1932.]

[Mr. D. K. Lahiri Chaudhury.]

He also further goes on to say:

"The following figures are impressive:

Indian Exports of Raw Cotton.

(In thousands of Bales of 400 lbs.)

	1929-30.	1930-31.	1931-32.
U. K.	270	281	164
Japan	1,640	1,886	1,080

In 1930-31 and 1931-32, Britain purchased the negligible proportion of seven per cent. of our exports of raw cotton."

The above figures show how the imposition of preferences on Indian cotton will benefit the raw cotton in England.

Now, what I wish to impress upon the House is this that as this is a matter of vital importance to the country, we should wait and see what the advice of the experts is going to be. You, Sir, yourself were good enough to point out, while you were on the Royal Commission, how far it will be practical and advisable to accept the preferences. In the case of the Dominions, the Delegates who went to attend the Ottawa Conference discussed amongst themselves and with the experts all those important questions which were to be put before the Conference, but the Indian Delegation went there without having any knowledge of these subjects. Of course, my friend, Mr. Chetty, has already got a great experience of economics and commerce and industry. He has already said that to err is human and errors of judgment may have been committed. Let us, therefore, discuss the matter dispassionately and most calmly and let us also whole-heartedly invite the advice of this House as well as the advice of experts to go into the details of the Ottawa Agreement and then decide the matter according to their advice.

The Assembly then adjourned till Eleven of the Clock on Thursday, the 10th November, 1932.

LEGISLATIVE ASSEMBLY. / DEC

Thursday, 10th November, 1932.

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

RESOLUTION RE TRADE AGREEMENT SIGNED AT OTTAWA.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Further consideration of the Resolution and the amendments on the Ottawa Agreement.

Sir Hari Singh Gour (Central Provinces Hindi Divisions: Non-Muham-madan): Sir, we meet this morning in an atmosphere of great unreality, an unreality enhanced by the fact that only two or three days ago a question was put in the House of Commons as to whether the Government of India's Nominated Members would take part in the division on the Ottawa Agreement and the Secretary of State for India said that he presumed that the Government of India would not depart from the usual practice with regard to Government measures and, then, when Mr. Lansbury asked, if this sort of Agreement ought to be carried by the vote of Nominated Members, Sir Samuel Hoare said that it was the ordinary procedure and, if it was departed from, the Labour Representative would be debarred from voting. Now, Sir, I wish to deal with this aspect of the question presently. I wish to go to the very root of the case and let us see as to who were responsible for making this Agreement, who have made this Agreement and who are called upon to ratify it. Now, it is a well known fact, and my Honourable friends, the occupants of the Treasury Benches will not challenge it, that the Government of India, as at present constituted, are not responsible to this House and through this House to the people of India, and, therefore, they are not the agents of the people of India. If they are agents at all, they are the agents of Parliament, they are the representatives of the Secretary of State who wields powers of supervision, direction and control over all their actions. Consequently when we speak of the Government of India, we are speaking, in the language of Lord Curzon, of a subordinate Government, six thousand miles away. That is the Government that appointed the Delegates to the Ottawa Conference. Now, as regards the Delegates, I do not wish, for one moment, to suggest that if the matter had been brought to the vote of this House, we should not have elected my esteemed friend to my right, Mr. Shanmukham Chetty. But that is not material for the reason that if we had elected Mr. Chetty, he would then have taken his cue and his instructions from his electors, whereas, as a nominee of Government he felt constrained to take his instructions from that Government, and that Government suffers from the fact that it is the Government of a body of men subordinate to Whitehall. Now, this is a unique feature in the constitution

[Sir Hari Singh Gour.]

of this country. But, if it were all, it would be sufficient to show to any fair-minded man that this is not an Agreement which has been entered into on behalf of the people of India. But, as I have said, this is not all. After the Agreement was concluded by our so-called representatives, we are called upon to ratify that Agreement. Now, who are we, is the next question. My Honourable friends on the other side admit that, in the matter of fiscal autonomy, India stands in the same position as the other Self-Governing Dominions of the British Commonwealth. The Joint Parliamentary Committee, in their memorable recommendation, pointed out:

"It can only, therefore, be assured by an acknowledgment of a convention. Whatever be the right fiscal policy for India, for the needs of her consumers as well as for her manufacturers, it is quite clear that she should have the same liberty".

—Honourable Members will please mark the words, "she should have the same liberty", not that the Government of India should have the liberty,— "she should have the same liberty to consider her interests as Great Britain, Australia, New Zealand, Canada and South Africa". (*Hear, hear.*)

That is the constitutional position accorded to India in the matter of fiscal autonomy. Sir, only two years back, when the question of fiscal autonomy was not directly at issue, it was raised on this side of the House, no doubt, but it was as vehemently contended by the Government that the question of Imperial Preference was not the subject-matter of any express or implied consideration in connection with their Bill, known as the Cotton Textile Industry (Protection) Bill. But, nevertheless, in connection with the discussion on that Bill, some of us raised the question as to whether the voting by the official block would be consistent with the principle and policy of fiscal autonomy vouchsafed to India. The then Leader of the House, the Honourable Sir George Rainy, read a considered statement on behalf of the Government of India which will be found printed at pages 2557-58 of the Legislative Assembly Debates, dated the 27th March, 1980. He made a very frank statement and that frank statement was that the Cabinet had decided that so far, in the matter of fiscal autonomy, India should have the completest control. Let me give the House his own words which are found at page 2558. This is what he says:

"The message of the Cabinet,

—meaning the message of the British Cabinet,—

"has made it clear that the convention applies not only to duties imposed for protective purposes, but also to those imposed for revenue purposes, and from the constitutional point of view that would be an intolerable position. In a sound constitution each organ must discharge its appropriate functions, and the function of one cannot, without grave disorganisation, be transferred to another".

Now, the whole question is, whether we, as the organ of public opinion, are to discharge our function or our function is to be discharged by another organ, namely, the organ of the Government of India subordinate to the Secretary of State. The Leader of the House then said:

"What we are all looking forward to in the near future, Mr. President, is a step forward in the path of India's constitutional advancement. If the Conference in London should result, as it might, in placing the control of the tariff in the hands of those who, in one form or another, were responsible to the Legislature, then it would rest with the Member or the Minister to put forward his proposals, and for the Legislature to accept them, to modify them or to reject them".

Having said that, he then turned to what is the present position of the Government of India, and this is what he said:

"But if the Government of India and the Legislature are not in agreement, what then? Is there no means of resolving the deadlock? None..."

That, he said, is the present position under the constitution of the Government of India. Then he further asked that if the Government of India have taken the sense of the Legislature and the Legislature overrules the Government of India, what is the position? The result is, that if the Government of India and the Legislature are not in agreement, the power of supervision, direction and control of the Secretary of State would then be restored. The position, therefore, is this, heads I win, tails you lose. If you agree with us, there is an end of the matter; if you do not, then we go to the Secretary of State, and as he will always agree with us, because we have had a previous consultation, we will carry it over your heads. That is the present absurd constitutional position; and, therefore, I say, is there any reality in this debate? Is there any sense in this debate? And when Honourable Members on the other side of the House proclaim that India has to decide whether she, in the exercise of her undoubted power of fiscal autonomy, shall or shall not agree to the Ottawa Agreement, that, I submit, is a statement made and must have been made with the Honourable Members' tongues in their cheeks, because they know full well that so far the fiscal autonomy convention is a mockery and, as Sir George Rainy pointed out, so long as we have no machinery, so long as we have no effective control over the executive for giving effect to that convention, the convention is not merely a matter of form, but it is an idle mockery. That, I submit, is one of the main questions with which we are at the present moment confronted. The Honourable Sir George Rainy, conscious of the defect of the present procedure, said that he would do all he could to give effect to the letter and spirit of the convention. Now, Sir, I ask the Honourable the Commerce Member, and the Leader of the House and his colleagues on the Treasury Benches, are they prepared really to give effect to the spirit of the convention by withdrawing from the vote the official block? Whatever may be said in favour of nominated representatives of special interests, that reason cannot apply to the official block of 26 Members who sit behind the Government Benches. Are they prepared to work this convention as they said they were prepared to do, by leaving this House to exercise its free vote on this question? That is the question which I raise and which I ask the occupants of the Treasury Benches to ponder over and decide for themselves.

Sir, that is what I have got to say on the question of the so-called fiscal autonomy in the exercise of which we are called upon to give our votes on this most momentous question.

Sir, this debate has gone on for three days and I have no doubt that the time has now come when we should decide one way or the other, whether the motion of the Honourable the Commerce Member should or should not be supported by the popular section of this House. The motion which the Honourable the Commerce Member has brought forward is, to say the least, of a most unprecedented character. The motion involves a decision on the principle of a Bill the text of which is not known to us and which I understand, has been deposited somewhere in a sealed cover not to be opened till this motion is carried by the House.

[Sir Hari Singh Gour.]

In doing so, the Commerce Member is asking us to close our eyes and open our mouths, and that is the situation in which the author of the Resolution has placed us. But Honourable Members on this side of the House will see that if we once accede to the motion of the Commerce Member we shall be ratifying the Agreement; in other words, we shall be accepting the principle beyond which it will be difficult for us to go at a later stage when the legislative measure is brought before us. What we should have liked is to have the Bill as well as the Resolution together, and, in asking the Government to do so, we are not oblivious of the fact that being a fiscal measure, if its details are disclosed, it would lead to anomalies in the sudden rise and fall of the commodity market in this country and elsewhere. But while this objection is undoubtedly sound, Government could have given us an idea as to what would be their budgetary disturbance if the Ottawa Agreement is ratified by this House. I remember the Honourable Sir Alan Parsons yesterday coming to the rescue when this question was suggested in one of the speeches by one of the Honourable Members on this side of the House; and, if I understood him aright, he said that the budgetary position will not be seriously affected even if we confirm or ratify the Ottawa Agreement; but the point upon which the Honourable the Finance Member and the Honourable the Commerce Member were invited to give their opinion was not the point upon which Sir Alan Parsons spoke. The point which has been exercising our minds is that the budgetary position at the present moment is in itself an abnormal one. You have only recently placed a surcharge of 7½ per cent. upon the customs duties. The customs duties themselves have been raised from time to time till they now come up to 30 per cent. and they have been further raised by a surcharge of 7½ per cent. Sir George Seabster, speaking at the Ottawa Conference, at page 66, said:

"To explain shortly what has been done, I may say that, while our normal tax revenue has, since the war, averaged about 75 crores (£ 56 million sterling), I have been forced during the last two years to impose new taxes calculated to yield 34 crores (£ 25½ million sterling), an increase of nearly 50 per cent. Yet, on present indications, even this may prove insufficient if the present low level of prices continues".

Now, the question which arises in this connection is, are we going to standardise this abnormally high expenditure which was voted—not voted at any rate, it was certified—and to which the Government of India stand committed on account of the abnormally low prices of commodities? That is the first question and no answer has been given to this question at all; and, therefore, we do not know to what extent our budgetary position would be affected if we ratify this Agreement. That is a question upon which we are entitled to a reply from the occupants of the Treasury Benches. The second point upon which emphasis has been laid in several speeches on this side of the House, and, indeed, which is the subject of one of the amendments under discussion, is not a point to be disposed of in a cavalier fashion. Let me recall the words of Sir Atul Chatterjee who, as head of the Indian Delegation, speaking at Ottawa, said, at page 56:

"In every case, the protective duty is only fixed after a careful examination by the Tariff Board at a level which will be adequate for its purpose without imposing an unnecessary burden on the consumer. The Government of India and their delegation feel that a policy of this kind, deliberately adopted and found, by experience, to work satisfactorily, should not be discarded on the eve of a great constitutional change".

What answer have they given to this statement made by the head of their own Delegation? Further, later on, he says, referring to the export trade of India:

"Her exportable surplus of certain commodities may, however, exceed—may even greatly exceed—the Empire's present capacity to absorb them. India has to find markets outside the Empire for the great bulk of the exportable surplus of her products, although, in normal years, she purchases a greater proportion of her requirements from within the Empire than from without. These are facts which those responsible for India's welfare have constantly to bear in mind. The development of her foreign trade generally is one of her primary interests. But it is not in the mind of any of us here. I am sure, that trade could be confined to Empire channels, and it is the hope of the Indian Delegation that this Conference may prove to be an important step towards greater freedom of trade throughout the world".

Now, I should have expected that the protagonists of this Resolution would throw some light upon these two very dark notes of interrogation which have been placed by no less an authority than Sir Atul Chatterjee in his considered speech before the Ottawa Conference but there has been no reply. And apart from what he has said, let me now, within the few minutes at my disposal, pass in review by way of illustration some of the salient features of this Agreement. I would invite the Honourable Members to turn to the Agreement itself printed at page 71; if they look at the classification, they will find that you have Schedule A, Schedule B, Schedule C and Schedule D; and I invite the attention of Honourable Members to these various Schedules in connection with what I am going to say. Honourable Members will find that while in respect of articles mentioned in Schedule C, namely, articles like tea, coir yarn and the rest, India has been given the exclusive preference in the sense that the United Kingdom undertakes, if she enters into an agreement with any other competing country, and should give that additional preference, India will be a participant to that additional preference. That is with reference to tea. But when you deal with articles which are mentioned in Schedule A—agricultural products produced in this country—you find the following statement:

"Wheat grain, Rice, Linseed (on which a great deal of emphasis was laid by the Honourable Members on the other side), vegetable oils, such as castor oil, linseed oil, coconut oil, etc."

It has been said that in the matter of oil and linseed India has distinctly to gain by this Agreement. Now, what is the position? The position is given in Article 2 which says:

"His Majesty's Government in the United Kingdom will invite Parliament to pass the legislation necessary to impose on the foreign goods specified in Schedule A, appended hereto, the duties of customs shown in that Schedule in place of the duties (if any) now leviable".

In other words, His Majesty's Government undertake to give India certain preference, but they do not undertake that they will not enter into an equally advantageous agreement with a foreign competing country. Take, for example, Argentine. That competes with India in the matter of linseed. I will give you only one example. There is no undertaking in this Agreement that, while we give you preference in the matter of linseed, we will not give equal preference to Argentine . . .

Mr. F. E. James (Madras: European): No, no.

Sir Hari Singh Gour: The only clause that deals with . . .

Mr. B. C. Burt (Government of India: Nominated Official): I would ask the Honourable Member to say if he has read the text of the clause that he is quoting.

Sir Hari Singh Gour: That is exactly the text I have read.

Mr. B. C. Burt: May I read the text of the clause which the Honourable Member is quoting:

"His Majesty's Government in the United Kingdom will invite Parliament to pass the legislation necessary to impose on the foreign goods specified in Schedule A, appended hereto, the duties of customs shown in that Schedule . . ."

A specific duty has been imposed on all foreign linseed.

Sir Hari Singh Gour: My friend has not understood me. I quite admit that clause 2 lays down that there would be a differential tariff placed on foreign goods, but there is nothing whatever corresponding to clause 4. And Article 4 deals only with tea, cotton, yarn and the rest of it. These clauses 2, 4 and 6 are inter-dependent, and you will at once see by comparison and contrast the point to which I am drawing the attention of this House. The occupants of the Treasury Benches and those sitting behind them said that the foreign countries were so impressed by the Trade Agreements made with India that they are also asking for preference,—and did I understand 8 or 18 countries had already applied for similar preferential tariffs. Is there anything in this Agreement like clause 4 which deals with tea and other things to prevent the United Kingdom from entering into a similar Agreement with other foreign countries? And what is more, the United Kingdom is only contracting for itself; it is not contracting for the Self-Governing Dominions of the British Commonwealth. Take, for example, South Africa and India. You know very well, Sir, that South Africa is a large producer of tobacco, and, in the matter of production of tobacco, cotton, wheat and other things, it competes in an increasing degree with the products of India. This Agreement does not deal with South Africa at all. It only deals with the United Kingdom and the non-Self-Governing Colonies like Ceylon and the Federated Malay States. Consequently, what has been given with one hand by the United Kingdom might be taken away by South Africa with the other hand. These are the questions which complicate the issues, and my friend on the other side cannot merely get up and say: "Here is a very fine Agreement made by a very fine people and supported by very fine men". What Members on this side of the House say is, that we all very much like to sit in a Committee and ask you these questions, make investigation for ourselves, and if we are satisfied that the nett gain and nett loss will, at any rate, balance each other, we are quite prepared to ratify this Agreement, but blindfolded as we are, we are not in a position at the present moment to give you a *carte blanche* to go ahead with legislation, the nature and extent of which we know not. At least that is what is passing through the minds of Members for whom I speak and Members who sit behind me (Hear, hear), and I cannot understand the intransigent attitude which has been taken by the Honourable Members on the Benches opposite. What objection can they possibly have to a further inquiry on the lines I have suggested? In the September Session, they told us: "Oh, there is a very great hurry, there is the 15th of November". Now they tell us: "Forget the 15th of

November!" There is no hurry to rush on with this measure without giving sufficient time or placing before us sufficient materials, and it is upon that ground that we, on this side of the House, ask Members opposite to once more reconsider their position and yield to the suggestion made. It does not matter whether it is the Committee formulated by my friend, Dr. Ziauddin Ahmad, or any other Committee, but give us a Committee where we shall be able to decide for ourselves after full investigation and inquiry as to whether we should or should not ratify this Agreement. In asking for this, we are only asking for time; in asking for this, we must not be understood to be hostile to the Agreement. The impressions that we have given expression to might be our first impressions, but they are entitled to some weight, and when we find that we have a phalanx of experience, mature and expert opinion, against the Ottawa Agreement, then you may certainly pardon us if we ask for a little time to consider it in the light of the observations that have been made. It may be that the view you take is right; it may be the criticism to which this Agreement has been subjected is wrong; but you ask us to sit as your jury, you must at any rate give us a chance of considering the whole question,—you cannot ask us to come to a hasty, ill-considered and, it may be, unwise judgment without considering all aspects of the question. This is all that Members on the Opposition Benches ask for at present, and they will not be satisfied with anything less. (Applause.)

Mr. H. P. Mody (Bombay Millowners' Association: Indian Commerce): Mr. President, this House has not been called upon, ever since the hapless ratio question was decided, to deal with a more momentous problem than the one with which it is confronted today. In view of the very important and complicated issues involved, it would be a distinct disservice to the country, in my opinion, if we were to bring to bear upon the consideration of this question any pre-conceived motions or political prejudices. I have been studying this Agreement ever since it was published, and I can say that, so far as I am concerned, I have approached the issues involved in it with an absolutely detached mind, and with no pre-determination of any sort to find out where and how I can trip the Indian Delegation. Nor, Sir, am I going to indulge in cheap sneers at the representative character of the Delegation. The Delegation may be said to be non-representative only in the sense that it was appointed by the Government of India which is not under the control of this Legislature. But from every other point of view, some, at any rate, of the members of the Delegation, can be said to be fully representative in every sense of the word. Taking that detached view of the Agreement and of those that lent their hand to it, I will apply only two tests. One is, is the Agreement to India's benefit, and the other, what are the possible disadvantages arising from the Agreement?

In order to determine whether the Agreement is to the benefit of India, it is necessary to examine in some detail, the case of the various commodities on which preferences have been given by Great Britain. I would like to preface my remarks on these by a quotation from one of the most recent pronouncements, namely, a lecture given by Mr. H. A. F. Lindsay, Trade Commissioner for India in England. He said:

"India holds one absolute monopoly, namely, jute which is commercially grown nowhere else in the world, and for which no general substitute has yet been found. But, besides jute, there are a number of commodities which, though not monopolies, India produces in greater abundance and more suitably than other countries. Shellac

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is one; goat-skins, teak, mica are examples, and yet other instances could be cited. These are essential to many industries of the Western World, but are not wholly produced in the West. Indeed, it is a striking feature of this trade picture how little India's exports compete with the native production of Western countries. In this she has a distinct advantage over South Africa, Australia and New Zealand which are also largely dependent on European and American markets but which export much that is distinctly European in character such as meat, dairy products, fruit and wine.

That, Sir briefly is the picture of India's export trade in most of the commodities. Now, let us go a little into figures. Taking the year 1929-30, the total exports of India to the world were Rs. 811 crores. England's share of this amounted to Rs. 87 crores. Out of this, when we consider the implications of the Agreement, we must take away those commodities which have been placed on the free list like cotton, hides and skins, manganese, raw wool, etc., which amounted to very nearly Rs. 11 crores. We must, again, deduct the commodities which were added to the free list at the instance of the Indian Delegation, such as hemp, raw jute, lac, mica, and broken rice. Those accounted for Rs. 8,52,00,000. In other words, when we consider what India stands to gain, we must deduct from Rs. 87 crores, very nearly Rs. 19 crores, leaving only Rs. 47 crores of exports to be considered. Again, out of these Rs. 47 crores, the largest item must be deducted—we will come to that later—namely, tea, which accounts for Rs. 23 crores. Thus, the total figure to be taken into consideration is something like Rs. 24 crores.

Let us now examine the various preferences. I will try to deal with them as briefly as I can. I shall first take the commodities which are included in Schedules A and B, and which are in the nature of new preferences. The first is wheat. The Delegation make the claim that though the question may not be as important to India as to the dominions, still the time may come when with irrigation schemes and the like India would want to participate in the benefit of any arrangement which may be made by Great Britain with the Dominions. That, Sir, is a very far cry. When we produce more wheat, when we produce a really substantial exportable surplus, let us talk of wheat. For the time being, let us take facts as they are and as they have been for ages and ages. And what are the facts? In 1929-30, out of a total of 111 million cwts. imported by Great Britain, she took from India only 140,000 cwts., a most negligible figure; I do not think it really required even mentioning. Those who look into the pages of the sea-borne trade returns will find for themselves that in the last four or five years we had, as a matter of fact, on the balance, imported rather than exported wheat. So, I say that wheat must be absolutely banished from the consideration of this question.

The next item that has been mentioned is rice. India consumes practically the whole of the rice that she produces. Only seven per cent. of her production goes outside the country, and, out of this quantity, Great Britain takes three per cent. The remainder of the requirements of Great Britain is supplied not by Empire countries, but by Spain and the United States of America. Therefore, even if our rice was taxed, we should be in the same position as Spain and the United States, even if we thought that rice was a commodity which we have to take into consideration when dealing with our export trade. (Mr. B. Das: "You forget Burma.") Then take coffee. India's share only amounted to 8½ per cent. Now, there has been on coffee, for a number of years, a preference

in favour of Empire countries. In spite of that, the exports to Great Britain from India have continued to be stationary, while the exports of other Empire countries have gone up. India's share, as I said, is 8½ per cent. the share of the Empire is 45 per cent.; and apart from Central America and Brazil, which are very formidable competitors for the coffee trade in Great Britain, British East Africa is perhaps the strongest of the Empire countries which is our competitor. I was not present here the other day when my Honourable friend, Dr. DeSouza, who should know a great deal more on the subject than I do, expounded the argument that this preference on coffee would be of distinct benefit to India. I say that the benefit is there, but it is rather negligible, and in view of the undoubted fact that India's consumption of coffee is increasing at a rapid rate, I do not think that the coffee trade ought to give us any concern.

Dr. F. X. DeSouza (Nominated Non-Official): May I point out, as a matter of personal explanation, that the benefit I indicated was the possibility of capturing the English market to the extent of Rs. five crores.

Mr. H. P. Mody: That is a very tall order, Mr. President; I should be satisfied with even Rs. 50 lakhs! I pointed out that Central America and Brazil export the most, that British East Africa is our strongest competitor among the Empire countries, and that India's sendings have been stationary in spite of the fact that there has been a preference in operation for a number of years. (An Honourable Member: "How much?") I could not tell you that straightaway, but it has been in operation since 1919. In view of that to say that we can capture Rs. five crores worth of additional trade is, I submit with great respect to my Honourable friend, a very tall order.

Take vegetable oils. The exports to Great Britain are, even as things stand, increasing and increasing substantially. My anxiety is to present a fair picture, and not to try and damn the Delegation's work, but rather to appreciate whatever they have done which is of benefit to India, and to point out where, in my judgment, at any rate, they have taken a view of the situation which is not warranted by facts. I say that, in the matter of vegetable oils, a preference would undoubtedly be useful, but to what extent it would be useful is a matter for consideration. The Delegation themselves have pointed out two handicaps which have interfered with the expansion of the trade in vegetable oils, and those are expensive packing and high sea freight. The question is whether this particular quantum of preference, which has been given in respect of vegetable oils, will be enough to overcome those two handicaps which the Delegation themselves have mentioned.

The next commodity is magnesium chloride, and it is proposed to have a duty on the foreign article of one shilling per cwt. Sir, the House should know something about the magnesium chloride industry in India, because it dealt with the question of protection only a short while ago. With great respect, I would laugh out the possibility of India being able to export magnesium chloride to any extent. In spite of the protection which was proposed by the Tariff Board and accepted by Government, the House may remember that I moved and carried an amendment that if, in spite of the protection, foreign competitors dumped their goods in India, the Government of India should without reference to the Legislature,

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increase the duty correspondingly. Sir, that amendment was accepted by the House. That shows that even with protection, the magnesium chloride industry is not capable of holding its own, but for the power which the Government of India have in their hands of imposing an additional duty without reference to the Legislature in the event of powerful foreign combines, particularly German, dumping magnesium chloride in the Indian market. So, I say, magnesium chloride ought to be ruled out altogether.

The last of the six commodities in Schedules A and B, is linseed, and I must again admit that here the preference would certainly be of advantage to India. But we have to consider how far that advantage would go. There has been no doubt that India has been losing ground to Argentine, and it is a question whether a 10 per cent. preference would be enough to overcome the competition from the Argentine. I think there is considerable disparity in price, and the question that we have to consider is—is the preference, which has been proposed, enough to make us level, so to speak, in competitive capacity with the Argentine in the matter of linseed? (An Honourable Member: "Not unless production is increased.") Exactly. The Delegation say, it is necessary apart from the preference that the production of linseed should increase, and they mention a figure of two million acres. Is that within the bounds of practical politics today? You can do it in a number of years, but, after all, this Agreement is to be operative only for a very short time. Do you expect within that time, that linseed would benefit to the extent to which, you think, it will, by bringing into the acreage as much as two millions more. I say, Sir, that that, in my opinion, is an estimate wide of the mark.

While I am on linseed, I would say that if Great Britain had offered a preference to cotton seed it would have been of distinct advantage. I would repeat that the preference is useful, in spite of the competition of Argentine. My only point is that it may not prove so very effective as the Delegation and my friends over there seem to imagine. In cotton seed, however, we are experiencing a great deal of competition from Egypt, and if, it had not been put on the free list and had been given a preference, India would undoubtedly have stood to gain.

That finishes Schedules A and B in which fresh preferences have been proposed. Now, Sir, let me go on, unfortunately the time at my disposal is limited, (Honourable Members: "Go on"), to the preferences which are retained. The distinction that I would like to draw is that here there is no question, of India having lost her ground. India has not lost her ground. She has managed to retain it, even to strengthen it, but the point is that we are told now that if we do not ratify this Agreement, much of the ground which India has retained could no longer be retained, because Great Britain would give preference to the rest of the Empire countries and leave India out in the cold. Let me preface this part of my remarks with a general statement. The United Kingdom's share in India's import trade amounted in pre-war years to 68 per cent. In 1927-28, it was 48 per cent., in 1928-29, 45 per cent., in 1929-30, 43 per cent., in 1930-31, 37 per cent., until in 1931-32 it came down to 35 per cent. That is to say, from 68 per cent. in pre-war years, England's share in the import trade of India dwindled to 35 per cent. What is the other side of the picture? And that illustrates the point which I am trying to make, namely, that so far as conditions are what they are, India's position in the markets of Great Britain is

secure. The corresponding figures of export are 25 per cent., 25 per cent., 25 per cent., 21 per cent., 22 per cent., 22 per cent., and 28 per cent., in 1931-32. The fact is that India's position today is secure in the markets of Great Britain. Having made that general observation, I pass on to some of the important items, I have selected such of those as would rather prove my Honourable friend's case. Take tea. There is not the least doubt that this is the most important of all the commodities which are affected by this Agreement. I do not hold with those people who say that the capacity of Ceylon or of Java is limited. I think they are talking absolutely without the book. I do not also hold with those who say that because it is British capital, therefore Great Britain will not discriminate against it. What is wrong with British capital? I have no prejudice of any sort against it. What is there to prevent my Indian friends from buying tea shares? The monopoly in jute was in Scottish hands for a number of years and today the largest holders of jute shares are Indians. In the same way the time may come when we may have a larger and larger share in the tea trade. So I dismiss that argument also. What I would point out is that it is undoubtedly true that if this preference of 2d. which has now been given to Empire tea under the last Budget, and not, mind you, under the Import Duties Act, if that were done away with, and Ceylon continued to enjoy preference, there is no doubt that we should lose a great deal of our trade to Ceylon. Perhaps we should lose a part of our trade also to Java and Sumatra. The only point is, what are the possibilities of such action being taken? While I admit, that if the preference were done away with, there would be a very considerable injury done to the tea trade, I think England will think ten times before it seeks to do away with this preference of 2d. Why? For the simple reason that India is the largest supplier of tea to the United Kingdom, and if she was put on the same footing as foreign countries, the duty of 4d. against Indian tea would determine the price of tea to the consumer in Great Britain. That is an economic fact, which I would like to see any of my Honourable friends challenge. So I doubt very much whether action would be taken against Indian tea, in view of the fact that the price of tea would be raised all round, and the consumer would be hit very hard. Do not let us forget that tea was free of duty and that it was for budgetary and revenue considerations that this preference was introduced.

We shall next take jute manufactures. While India gains by the proposed preference, as against India would the Dundee jute industry, we must remember that Great Britain only takes six or seven per cent. of the total exports from India to various countries. If preference were not given, it may be that our exports to Great Britain might diminish to a certain extent, but do not forget that as regards jute manufactures, we have the whip hand in the sense that we have a monopoly of the production of raw jute, and if a duty were imposed upon jute manufactures, it could be counterbalanced by an export duty on raw jute. I am not saying that, it would be done, but there is the possibility. Now let me take teak. The industry exports about ten per cent. of her total output and supplies more than half of the British market's requirements. If preference were eliminated, Indian trade would be affected to a certain extent, but I do not know to what extent that would be, because no figures are given. I am sorry to have to go on at this length, but I hope, Sir, you will give me a little indulgence, because I have made a study of this subject.

Some Honourable Members: Go on, go on.

Mr. H. P. Mody: Next let me take pig lead. The largest export is to the United Kingdom. Here the retention of a preference, I will admit, would be of advantage, but, again it is not possible for us to say what the advantage would be. Here I want to make a general complaint against the Report of the Indian Delegation. We were given the report on the 18th of October. But the detailed facts and figures which are absolutely essential for a study of this question have not been supplied. Only general statements are made, sometimes backed up by a few facts and figures, and we have had to wade through blue books and works on economics in order to determine how far the statements which are to be found in the report can be substantiated. Therefore it is that while I admit that in the case of pig lead and teak a preference would be of distinct advantage, I am not in a position to assess what that advantage would be in the absence of the figures which are required.

Next we have spices. They are a negligible item in so far as the value of the export to Great Britain is concerned, and I do not think they ought to have been made a song of in the Report of the Delegation.

Then, take tobacco. I shall not weary the House by attempting to go into details, but I will say this as regards tobacco. In Great Britain, the tastes and habits of the people are changing, and today a very considerable amount of cigarettes is being consumed—a great deal more than any other kind of manufactured tobacco. India does not produce enough of cigarette tobacco yet. Such tobacco requires skilful blending; and if India were to produce such tobacco in appreciable quantities tomorrow, there is a great deal of the country's own consumption to look after. Cigarette factories are springing up fast in India, and you will find, Sir, that if India, were to increase her production of cigarette tobacco, it will all be absorbed by the home market.

The other side of the picture is what would be the possible disadvantages to India if this Agreement were ratified. Now, the first general feature which strikes one is the extraordinary range of preferences given. My Honourable Leader, Sir Abdur Rahim, pointed this out yesterday. What I want in this connection to do is to draw Honourable Members' attention particularly to the Report of the Fiscal Commission of which you, Sir, were the distinguished President. I do not know how many times the Report has been quoted—I wonder if you quite like it!—but I must quote paragraph 25 of the Report:

"In our view, it is clear that if preference is to be given, it must be confined to a comparatively few commodities and cannot take the form of a general preferential tariff. The commodities selected must be as far as possible those in which British manufacturers already hold an important part of the market and in which the grant of a preference is likely to develop rapidly the portion of the market which they will command so that the burden on the consumer, if any, will be removed at an early date."

Sir, I have examined, somewhat hurriedly the whole Schedule of the articles on which India is to give a preference. In respect of a few items, the test laid down by the Fiscal Commission is satisfied, in that England holds a great part of the Indian market, and if we were to consider mutual preferences, it would be right and proper that we should give preference on these articles. Then, there is, another class of articles where the trade of Great Britain is so very small that to give preferences to Great Britain by raising the duty on the foreign article would be to raise the

price to the consumer on all those articles; and they are the most numerous of the whole lot. By all means give preferences if we have to enter into a Trade Agreement, but give it on those articles in which Great Britain holds an important position, so that the burden on the consumer may be eliminated at a certain date, but do not give it on an enormous number of articles in such a way that it becomes a general measure of preference. What would be the consequence of that apart from the considerations which I have mentioned? The case of Indian industries was mentioned in the course of the last two or three days. I do not see that our major industries are going to be affected, but do not forget that in the last year or two a great many small industries have sprung up—cement, paint, painters' materials, aluminium circles and sheets, earthenware, porcelain, electric lighting accessories, safes, strong boxes, boots and shoes, etc. Only the other day, I came across a small factory for the manufacture of plugs and switches. If you are going to give preferences all round, you should consider the effect on such nascent Indian industries that are rapidly, under the stimulus of Swadeshi, springing up in this country. (Applause.) The other disadvantage would be an increase of the burden on the consumer or a loss of revenue. Great Britain gets a preference either by a reduction of the duties against her products, or against foreign products by a raising of the duties. In the one case there will be a loss of revenue, and in the other case a burden on the consumer. In view of all this, I submit that this Agreement requires the most careful examination. We ought to know what the other part of the arrangement is: in what way are all these preferences, which are to be given to articles of British manufacture, worked out in the Tariff Bill. Another general consideration has been urged. Many critics have said that there will be retaliation. I am not of that view. Sir, in matters of economics, there is no place for sentiment, either of hatred or of love (Hear, hear), and unless some of these Professors are able to establish to my satisfaction that it is possible for foreign countries to retaliate against India, I am not going to accept that argument. (Hear, hear.) But I am going certainly to advance another argument and that is this, that if only a limited trade is going round, and you slice a portion of it from foreign countries, it does not mean that you enlarge your trade. It means merely that the trade has been diverted from one channel into another. I shall give you what was stated only very recently by His Majesty's Senior Trade Commissioner in India and Ceylon. He says:

"Apart from the working of economic laws, there has been for many years a tendency all over the world for a country to purchase its imports from those countries which are the most important customers for its own produce."

Unless the world level of prices rises, and unless we get out of this trough of depression, what we shall experience will be that the foreign countries which will be driven out of our markets in respect of those commodities on which we have given preference to Great Britain will, on that account, buy less of our products; their capacity to pay for our produce to that extent is bound to be diminished. I say, Sir, these are rather important considerations, and they ought to be very carefully examined.

Let me turn for a moment with the arrangements with the Colonies. Kenya, Uganda, Zanzibar and Nigeria and some others have been left out of the picture; Ceylon and the Malaya State are there. Even in respect of Ceylon, what do we find? There is a clean-rice trade of India which Ceylon will not give preference to. Ceylon, of course, has a right

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to consult her economic interests, but this is the sort of arrangement we have got with the Colonies, Kenya, Uganda, Zanzibar and Nigeria and other Colonies get preferences without any return, because they are said to be precluded by treaty arrangements from giving us preferences. In British East Africa, for instance, there is a large trade in textiles and India would have been benefitted considerably if a substantial measure of preference had been given to her textiles. British East Africa does not do so. It chooses to take her cloth from Japan; thus we are giving preference to a country which chooses to buy her requirements from a foreign country in preference to Empire countries. That is the sort of arrangement which we have come to with the Colonies.

Let me end with an appeal to my Honourable friends. After all, we have only had this report for a month. Very few figures, as I have said, have been given and we have had to wade through blue books and various publications. It is all very well for the British Parliament to get the necessary legislation through in no time, because after all Parliament represents the will of the nation, and it is a National Government that is in power. This position does not exist in India. We have besides, only one side of the case before us, and we do not know what will be the effect on the revenues of India or what will be the burden on the consumer. I will say to the Government: You forced down the throat of India the ratio, and even you have realised that it was an evil day when you used your majority for the purpose of ramming the ratio down our throats. (Applause from Non-Official Benches.) While I do not deny your technical right to use the votes you have got, I say, it will be an even more evil day if you use them after a four days' general discussion of this character to force this Agreement down the throat of India. Let us give it an examination by a Committee of the House. My Honourable friend, Dr. Ziauddin Ahmad's amendment may not be possible of acceptance; we may not be able to co-opt experts, and to have their report in time; but do let us have at least a Committee of this House and give it an opportunity to examine the Agreement. I for myself promise that I shall import no political bias into the consideration of the question. I shall look at it as a strictly business proposition, and if you convince me that the Agreement is to the benefit of India, I shall be your strongest supporter. (Applause.)

Mr. F. E. James: Mr. President, I am sure, the whole House will congratulate Mr. Mody on one of the ablest speeches on purely economic lines to which we have listened during this debate. I cannot, however, help observing that it is refreshing to find Mr. Mody himself in a new role, namely, as a champion and protector of the consumer. (Applause from Official Benches.) May I apply to him some words written by *Punch* in connection with Sir Herbert Samuel's resignation and make this appeal to him?

"Long since he had his chance to make
A fiscal sacrifice for unity:
He might have starved for Free Trade's sake
But chose to miss the opportunity;
Why now deny himself the fat
In which for months and months he's wallowed?
Why strain at Ottawa's paltry gnat
After the camels he has swallowed!"

Mr. H. P. Mody: May I tell my Honourable friend that it is one thing to put a burden on the consumer in order to help your industrial development and quite another when industrial development is not in question. I invite my Honourable friend to read the report of the Fiscal Commission on that point.

Mr. F. E. James: I should not have dared to address the House without having most carefully read and pored over the Report for which you, Sir, were so largely responsible.

Now, Sir, Mr. Mody has addressed himself to the general argument as to whether this Trade Agreement is or is not definitely beneficial to India. I would like to remind him, as I would like to remind the House generally, that there are two sides to this question. Those, who are readers of the papers, will have observed in the House of Commons the very strong opposition voiced to the preference proposed on linseed for India and I have in my hand an extract from a letter which was recently received from a well-known British manufacturer who is a keen supporter of the Labour Party. With your permission, Sir, I would like to read one or two extracts from this letter, merely to point out to Honourable Members that there is another side to this picture. Just as the Honourable Members are criticising the Agreement here, so there are communities in my own country who criticise the Agreement from exactly the opposite point of view. This is the extract from the letter:

"This Trade Agreement is definitely beneficial to India, but its results are not so obviously beneficial to Great Britain. Indian pig-iron will undercut the workers of Scotland and South Wales. How will they regard the matter when they lose their jobs through the entry of a subsidised Indian article? We are offending the Argentine by giving a new and handsome preference to Indian linseed. India gets preference on tea, rice, coffee, vegetable oils and many other important products. What do we get? Preference on a long list of articles most of which do not amount to a ha'pence shut out by high protective tariffs, and not only that, but the right to get protection on even any of the goods to which preference is given to us, so that they can be removed from the Schedule. But the crowning scandal (this is from a British manufacturer) of the whole thing is that there is no period to the Agreement. It can be repudiated at six months' notice in whole or in part. Now, what the hell is the good of an Agreement like that? Your Delegates were clever devils. (My Honourable friend, Mr. Shanmukham Chetty, will appreciate the compliment.) They pulled the bluff alright."

That, Sir, is the opinion of a British tax-payer on the Indian Agreement. Now, Sir, my Honourable friend, Mr. Mody, has given us a detailed examination of the Agreement itself. He has done so by two methods. First of all, he has reduced, as far as possible, in anticipation, the advantages to Indian exports which are likely to accrue. He began by making a very large deduction. He spoke of the export trade of 47 crores of India which might be considered and then said, "We will take away from that 24 crores which deals with tea and we will deal only with 23 crores that are left".

Mr. H. P. Mody: Taking these separately.

Mr. F. E. James: He then proceeded to take article by article and, on no foundation of fact whatsoever, he proceeded to decry the advantages which might accrue. He took up the question of coffee. Now, Sir, you will find, as my Honourable friend, Dr. DeSouza, has already pointed

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out, that, as a matter of fact, the new preference or the increased preference given to coffee is, and will be, of very great advantage to coffee producers, provided, and this applies to the case of every single article of Indian export which is benefited under this Agreement, provided the producers concerned take advantage of the new preference given. Why do I say, Sir, that a preference on coffee is to be of great value? My Honourable friend would have found the answer in the body of the report itself; and may I say, in passing, that the answer to practically every criticism levelled on the floor of the House against the Ottawa Agreement is found in the body of the Report itself. You will find the answer here:

"The Preference will now be increased to 9s. 4d. a cwt., and, as most of the foreign coffee imported into the United Kingdom is of the mild type and similar to good quality Indian coffee, it is reasonable to expect that the consumption of Indian coffee in the United Kingdom will increase substantially."

That is the answer to my Honourable friend's argument.

Then, Sir, he dealt with the question of magnesium chloride. I am simply picking out a few of these to demonstrate that his arguments are entirely fallacious and not based upon the practical considerations of the situation. In fact, I am surprised that being a good businessman, he used this argument. A good businessman is one who seizes every possible advantage of expanding his industry and of expanding its exports. My Honourable friend on the other hand is taking every possible opportunity of decrying the advantages that are given in this Agreement.

Mr. H. P. Mody: Will the Honourable Member explain the advantages?

Mr. F. E. James: I will now explain the question of magnesium chloride. My Honourable friend, Mr. Mody, says that there is no future for this industry as an exporting industry even if preference is given. Why then is it that only last week the interests concerned in the United States of America have appealed to the American Government to use the provisions of their antidumping legislation to protect their market against the import of magnesium chloride from India?

Then, my Honourable friend spoke of linseed. Fortunately he had little to say about linseed. All he said was that he did not expect that it was within the capacity of India to increase her production within six months by two million acres.

Mr. H. P. Mody: Within a measurable distance.

Mr. F. E. James: Surely, it is within the capacity of India to increase her production reasonably quickly and that is all that the Delegation ever recommended. I may point out once more that the value of these preferences to India in the matter of linseed is proved by the opposition that has been raised in England against this particular preference by the interests concerned.

Now, Sir, I will deal with two other articles. I will deal with the question of tea. And here, I would like to congratulate Mr. Mody upon the broad-minded view which he has taken of that industry and I welcome,

with all my heart on behalf of the industry, which in part I represent, his kindly references to British capital in this country. But looking into the matter from a purely economic point of view, there are two arguments which have been advanced during the course of this debate, the first argument is that Great Britain will never forgo preferences on tea or never remove preferences on tea as that might injure the British planters here.

Mr. H. P. Mody: Probability, I said.

Mr. F. E. James: There is the probability. But I should like to remind my Honourable friend that in 1929, Mr. Winston Churchill, as Chancellor of the Exchequer of a Conservative administration, reduced and then removed the preference on tea which India had enjoyed. Those of us who are interested in the tea industry have as little reason to be fond of Mr. Churchill as my Honourable friends on the other side of the House, though perhaps on different grounds. But, what was the result of the removal of this preference? In 1923, the Empire supplied to Great Britain 93 per cent. of her consumption of tea, whereas Sumatra and Java supplied seven per cent. After the preference was removed in 1929, in 1930 the Empire supply of this product in the United Kingdom had dwindled to 80 per cent., whereas the supply from Java and Sumatra had increased to 19 per cent. As soon as the preference was removed, repeated efforts were made, not only on behalf of the interests involved in this country, but also, I believe, at the instance of certain of the Provincial Governments, for a restoration of the preference on tea, but it was repeatedly refused. In 1931, it was refused last, and in 1932, this preference was granted. What was the immediate result? Since 1st April this year, during the last six months, the exports from Java and Sumatra have gone down by nearly four million lbs., as compared with 1931 and there has been a corresponding or a nearly corresponding increase in the export to the United Kingdom of Indian tea.

Then, Sir, another argument has been advanced—I have mentioned this argument before, but I want to put in another plea—the argument was advanced that the people of Great Britain would never agree to an act which would injure the Indian tea industry. My Honourable friend has never had the advantage of addressing a meeting of the Labour Party in Great Britain. When, at the time of the last General Election, a friend of mine was standing for the British Parliament, one of the arguments he was advancing for his candidature was that he supported a general scheme of Imperial Preference, and some one said: "What about tea?" He suggested: "Let us put a duty on foreign tea to save the ruin of the business of your own countrymen which they have established in India". The answer came quick from the audience: "What do we care about the interests of the industrialists in other countries? Give us cheap tea".

Mr. H. P. Mody: That was my whole point.

Mr. F. E. James: My whole point is this. My Honourable friend advances the argument that preference is something which matters little to tea. I have pointed out, it matters a great deal. The other argument is that the British Government will never go back on that principle. I have pointed out that, not only have they gone back upon it before, but they will go back upon it again, unless the principle of preference is enshrined in the form of an agreement.

Mr. H. P. Mody: I should like to interrupt my Honourable friend. I did not talk of preference. All that I said was that it is unlikely that England wished to do away with preference in the sense that there would be a duty of 4d. per lb. on Indian tea, because Indian tea, holding the position as it does in the British market, the price thereof would be raised all round and the British consumer would not allow it, including the labourite.

Mr. F. E. James: If the duty was reduced, there is still the principle of preference and my argument would still hold good in those circumstances.

Mr. R. K. Shanmukham Chetty (Salem and Coimbatore *cum* North Arcot: Non-Muhammadian Rural): What is likely is that in the interest of the British consumer the Labour Party will decrease the duty on foreign tea by two-pence and equalise it with Indian tea.

Mr. F. E. James: I pass on to another article which Mr. Mody in his wisdom somewhat lightly skated over and that is the question of tanned hides and skins in which there is a matter of seven crores involved. India, under the Agreement, gets preference on the manufactured or semi-manufactured article and continued free entry for the raw material. You will remember that in recent discussions in Great Britain the tanning industry has strongly recommended a ten per cent. duty on all tanned hides and skins. If there had been no Agreement, there would have been today or, at any rate, from 15th November, a duty of ten per cent. on tanned hides and skins from India. Take that into consideration with the raw product which gets free entry equally with the raw hides of other countries and you will see that a tremendous value accrues to the tanning industry in this country from this particular Agreement.

Mr. Rahimtoola M. Ohinoy (Bombay City: Muhammadan Urban): May I know how much of these hides and skins that go from India is consumed actually in the United Kingdom?

Mr. F. E. James: I have not the figures immediately at hand, but no doubt the Commerce Department can supply that information. Now, Sir, the further argument has been advanced that if this particular Agreement is ratified by the Assembly, there would be an immediate and damaging retaliation on the part of the foreign countries. Well, Sir, the first point was taken by Dr. Meek yesterday, and I do not wish to dilate on that point, in which he proved that retaliation never does pay and that a country will not retaliate unless it suits its trade to do so. But what have other countries done as far as India's export trade is concerned, in recent years? If you will examine a few of the articles concerned, you will find that in France the duties on linseed oil, groundnut oil, hides and skins, coffee and jute cloth have been raised tremendously. The duty on coffee, for example, is £5-18-4 for a two hundredweight bag. Take Holland,—increased duties on jute cloth and groundnuts. Take Germany,—increased duties on linseed and coffee. Take Japan which is so often quoted in this House,—a prohibitive duty on pig-iron and a total prohibition on the import of rice. Take America,—large increases all round in tariffs against Indian exports of recent years. I have already mentioned the special action which it is desired to take in connection with magnesium ore.

Then, Sir, what is the immediate effect of the Ottawa Agreement as far as the United Kingdom is concerned? One of the immediate results is that there have been from all the Scandinavian countries, from Germany, from Holland, from the Argentine, Trade Delegations sent in order to come to reciprocal arrangements regarding tariff arrangements between those countries and Great Britain. In other words, the first result of the Ottawa Agreements, after they were published, has been that other countries have desired to come into similar arrangements whereby there may be reciprocal lowering of tariffs. And that brings me to my last and main point. I stand here as a free-trader, in theory. I believe that the freer the trade, the bigger the trade. I believe that the principle of national sufficiency and the principle of even Imperial self-sufficiency is a wrong one and will lead ultimately to an economic wilderness. India wants more trade; India will get that trade only if general trade throughout the world recovers. You will find, Sir, in the Report, in the speech of Sir Atul Chatterjee the following sentences. I quote this speech, because it illustrates the spirit in which the Indian Delegation went to Ottawa and made their Agreements:

"India has to find markets outside the Empire for the great bulk of the exportable surplus of her products, although in normal years she purchases a greater proportion of her requirements from within the Empire. These are facts which those responsible for India's welfare, have constantly to bear in mind. The development of her foreign trade generally is one of her primary interests. But it is not in the mind of any of us here, I am sure, that trade could be confined to Empire channels, and it is the hope of the Indian Delegation that this Conference may prove to be an important step towards greater freedom of trade throughout the world."

That, Sir, was said by the Leader of the Indian Delegation before the Ottawa Conference began. What was the result? Largely, I believe, as a result of the influence of the Indian Delegation at that Conference, there was a Resolution on Trade Agreements in general passed unanimously by that Conference in which the following appears:

"That by the lowering or removal of barriers among themselves provided for in these Agreements the flow of trade between the various countries of the Empire will be facilitated, and that by the consequent increase of purchasing power of their peoples the trade of the world will also be stimulated and increased;

Further that this Conference regards the conclusion of these Agreements as a step forward which should in future lead to further progress in the same direction and which will utilise protective duties to ensure that the resources and industries of the Empire are developed on sound economic lines."

The whole point of this Agreement, the main argument in favour of this Agreement is that, first, it will result in expanding India's export trade and, secondly, it will lead to a general lowering of tariff values throughout the whole world. Those who vote against the Agreement definitely vote against a chance of increasing India's export trade which is not likely to recur again in another generation. Those who vote against the Agreement also vote against the first practical step which the countries of the world have been taking, the first practical step to bring about a general world recovery. One more moment and I have finished. My friend, Mr. Mody, at the close of his speech, appealed in a very sincere and moving manner for time for consideration of this Agreement. Now, we have before us, at the moment, an amendment of the original Resolution moved by Dr. Ziauddin Ahmad, but as far as we are concerned, we cannot accept that amendment as it stands. We feel strongly that time should not be wasted; we feel strongly that the matter is urgent. But we are

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prepared, if a proposal were forthcoming on the floor of this House, to support some suggestion whereby, without delay and without further complication, this House would have an additional opportunity, through a Committee, of examining the actual implications of this Agreement. But there is nothing before the House at the moment. My last word is this: that whatever we do on the floor of this House, whatever conclusion we ultimately arrive at, let that be a conclusion which is in the interests of India's best economic advantage, and through her best economic advantage, in the interests of world trade as a whole.

Mr. R. S. Sarma (Nominated Non-Official): Mr. President, there is a cablegram this morning in the *Statesman* as to what happened in the House of Commons regarding Assembly proceedings on the Ottawa Debate. Mr. Lansbury asked if this sort of Agreement was to be carried by the votes of Nominated Members; to which Sir Samuel Hoare replied that it was the ordinary procedure and, if it was departed from, the Labour Representative would be debarred from voting. I am afraid that both the suggestion of Mr. Lansbury and the reply of the Secretary of State were most unfortunate and irrelevant, because it is likely to create an impression that the Nominated Members of this House have already been pledged to support this Agreement and that we go into the lobby at the order of the Government. It is not so; and let me say this as a Nominated Member that the Government of India have no right to give any such dictation nor is there any obligation on the part of the Nominated Members to obey that dictation even if given. I am saying this for two reasons; unfortunate impression may be created by the publication of this cable at home and, also, if this Resolution is carried, the Opposition may go and say that the Government carried it with the votes of the Nominated Members. If some of the Nominated Members like me happen to vote for the Resolution, it is because we feel that this Agreement ought to be ratified. (Interruptions.)

I do not mind interruptions: I have been accustomed to interruptions in this House and I have often times hit back also. But today, even if I am interrupted, I am not going to be aggressive or use a harsh word, because I find from this morning an atmosphere of sweet reasonableness and conciliation pervading throughout the whole House and the lobbies and I do not want to say anything or do anything which might in any way interrupt that. I must say that we are always bringing to bear an independent mind and judgment on issues of this character. To demonstrate that, let me at once say that my sympathies are entirely with the amendment of Dr. Ziauddin Ahmad subject to the alterations implied and suggested by my friend, Mr. James. It is not because that I do not like the provisions of this Agreement; on the other hand I entirely agree with the main Resolution and the provisions contained in the Ottawa Agreement. We do not understand what all these learned pundits have been saying for the last three days, upon linseed, cotton, aluminium and all that sort of thing. Many of us are laymen; but we do understand from a cursory study that 55 per cent. of our imports are unaffected by this Agreement.

Twenty-two per cent. is subject to examination by the Tariff Board; and this supposed preference covers only about 22 per cent. of our

imports and, even there, our protected industries are not touched. Taking these figures we find from the reciprocal preference as was explained yesterday by Mr. Shanmukham Chetty, the balance of advantage is entirely in our favour. And the other reason why I support this Agreement is a purely—you may call it very narrow—provincial and personal reason: the provincial reason being that the two provinces which immediately stand to gain by this Agreement are Madras, the province of my birth, and Bengal, the province of my adoption. Of course the province that does not stand to gain so much is the province of Bombay, from where this agitation has been engineered against the Agreement. The second personal reason is this: in any document if you find the signatures of men like Sir Atul Chatterjee or Sir Padamji Ginwala or Mr. Shanmukham Chetty and if the same is supported by a man of the proved patriotism of Sir Joseph Bore, I do not think any patriotic Indian should have any objection to support it. If ever the day comes when people like these prove false to India, I say, then, good bye to all prospects of this country ever becoming free.

With regard to the suggestion about supporting this amendment, if you will permit me, Sir, I will move an amendment to Dr. Ziauddin's amendment with alterations on the lines suggested by my friend, Mr. James. After the word "report" we may say "within a week", and then (interruptions)—I am only making a suggestion and it is for the President to accept it; and then delete the words about co-opting not more than six specialists for one simple reason: if the gentlemen who have signed this Agreement, Sir Atul Chatterjee and Sir George Rainy and Sir Padamji Ginwala and Mr. Shanmukham Chetty are not experts, where are the experts in this country who can compare with these people? In view of this, I suggest, with your permission, Sir, an amendment to this Resolution and I have no doubt that the Commerce Member will have no objection to accept it.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member may be in the confidence of the Commerce Member but the Chair requires the amendment to be handed over to it for consideration. Honourable Members are aware that in terms of the Standing Orders two days' notice is required for every amendment to be moved. The Chair has the power of suspending the Standing Order and allowing an amendment to be moved at any stage of the debate; but in order that the Chair may be able to consider whether at this stage such an amendment should be allowed without notice, it is necessary that the Honourable Member should hand over in writing the amendment which he proposes to move.

Mr. R. S. Sarma: May I say a word of personal explanation? I am not in the confidence of the Commerce Member, but I thought that in view of the reasonableness of my suggestion together with the support that Mr. James gave to it—there will be little difficulty on the part of the Government to accede to it. If you want, I shall write it out, Sir.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Yes, you may write it out and send it to me.

* **Sirdar Harbans Singh Brar** (East Punjab: Sikh): Mr. President, a lot has been said on this subject from a commercial point of view and I

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need not detain the House on that issue. My only reason for intervening in this debate is this: I have to see the Agreement purely from the agricultural point of view, whether it benefits the hundreds of millions living in the countryside or whether it does not. If any protection or any additional market to the agricultural produce of Northern India is there, I am for it; if there is not, I am against it. It is clear from the terms of the Agreement that cotton is given no additional protection, and, our main buyer of cotton being Japan, if we have to give preferential duty on English cloth, then Japan will naturally retaliate and refuse to buy our cotton. Agriculture will, by that means, suffer. As far as this four annas' protection on wheat goes, when we cannot compete with Australian wheat in our own country, and when the freight charges between Australia and Calcutta are cheaper than the freight charges from Punjab to Calcutta, we can hardly expect to compete with Australia and much more with Canada in the British market. That being so, no protection or additional export trade for the agricultural produce can be expected; and there being more duties on the imports which the agriculturist has to pay he suffers a double loss. He is neither provided an additional market for his produce, nor is he given the benefit of buying his goods which are imported into this country from the cheapest market. Under these circumstances, I feel that, representing as I do a purely agricultural constituency, I will not be well advised, until and unless I could be satisfied that some additional protection to agricultural interests and some more additional margin for agricultural interests are accorded, to vote for this Resolution. I have only these words to say.

Khan Bahadur Makhdom Syed Rajan Baksh Shah (South West Punjab: Muhammadan): (The Honourable Member spoke in Urdu a translation of which will appear later as an Appendix to these debates.)

Mr. Amar Nath Dutt (Burdwan Division: Non-Muhammadan Rural): Sir, for the past three days I have been carefully listening to the debate on this very important Resolution. I came here with an open mind, and I keep my mind open still. I must say that I am still unconvinced as regards the necessity for this Resolution, and I am not convinced that this Ottawa Agreement will be of any benefit to my country. In view of the fact that there are many Members on this side of the House who are of the same opinion as mine, and who have not been able to come to any conclusion on the matter even after hearing the various speeches delivered on the subject on both sides, it seems that the suggestion of my friend, Dr. Ziauddin Ahmad, is a reasonable one and Government should accept it. After all, what does the amendment ask? It asks for a little more time to consider the matter fully with the aid of experts. That is the very least thing that the House can accept.

With regard to the amendment of my friend, Mr. Sarma, he says . . .

Mr. President (The Honourable Sir Ibrahim Rahimtoola): That amendment has not been moved.

Mr. Amar Nath Dutt: I think my friend, Mr. Sarma, suggested that the time for consideration should be very short. Probably his idea is that it should be considered within a week or so. I have also gathered from the lobby conversations that the idea of Government is that it should be

hurried, and if there should be any Committee it should report within a week or a fortnight at the most. Sir, I submit that it will be very unreasonable to ask the Committee to come to any conclusion within the short space of a week or a fortnight, because volumes of literature will have to be studied and several blue-books will have to be waded through including numerous figures, and we will also have to try to understand the expert point of view. That being so, the only alternative left to me is either to oppose the Resolution or to support the amendment of my friend, Dr. Ziauddin Ahmad. Sir, I am myself a landholder and, as such, my interests are intimately bound up with the interests of the agriculturists. Members who come from Bengal will bear me out that we have all been hit very hard by the economic depression, and especially by the fall in the prices of agricultural produce in our province. My friend, Mr. Sarma, lays a special claim to speak for Bengal, and he says that is a land of his adoption. I do not deny him the honour, but, at the same time, I think he will not deny that I have a greater right to speak for Bengal than my friend over there. One Honourable Member suggests that he is an adopted son but, even in that case, he can claim the rights of a son according to law. But I do claim to be a true son of Bengal having settled for about a thousand years in the province, after our ancestors migrated from Kanyakubja to the province at the request of King Adisura, who invited five Brahmins and five Kayasthas to Bengal. We are landholders and enjoy Permanent Settlement, and as such our interests are intimately bound up with that of the tillers of the soil. That being so, I think my friend, Mr. Chetty, whom I do not see here, will not appear at me by saying that I am also a super-patriot if I speak on behalf of the agriculturists as well as the landholding class with whose interests the interests of the agriculturists are intimately connected. In fact, I do think that no benefit will accrue to the agriculturists from the Ottawa Agreement or to the landholding classes of Bengal. Therefore, unless we are convinced of the other advantages to our countrymen, we cannot support this Resolution, and the most we can do is to support the amendment of my friend, Dr. Ziauddin Ahmad.

Dr. R. D. Dalal (Nominated Non-Official): Mr. President, in giving my wholehearted support to the motion moved by my Honourable friend, the Honourable the Commerce Member, I desire to refer to one or two points in respect of the Ottawa Agreement. Sir, coming as I do from a distinguished mercantile family in Guzerat, Western India, I have all my life taken a deep interest in commercial matters, so I should be failing in my duty if I did not make a few observations on this important subject. In view of the changes in the Fiscal Policy of the United Kingdom which have taken place as a result of the Import Duties Act, it must be conceded that great losses would accrue to India's export trade from the imposition of the new British Tariff, so the Government of India are in duty bound to subserve the welfare and interests of India and to enter into reciprocal Trade Agreement with the United Kingdom. India cannot afford to be indifferent to her own prosperity, and I am sure that the House is not so bankrupt of solicitude for the good of the country that it will throw away this chance. If India will not accept this Agreement, it is but natural that India would run the risk of losing her trade in respect of certain commodities. To cite an illuminating instance, tea is the largest item of India's export trade. If India refuses to accept the Ottawa Agreement, a terrible disaster will overtake the tea industry

[Dr. R. D. Dalal.]

in India—it would mean a disaster to British capital, Indian capital, and Indian labour. If, as a result of actual experience during a certain period, the expectations of India in respect of growth of trade are not realised, and if the losses are greater than the benefits derived from the Agreement, it will be open to India to terminate the Agreement at six months' notice. I feel confident that the efforts of the present Government to ratify the Ottawa Agreement will be attended with success; but it is just possible that the future Government may terminate the Ottawa Agreement. In view of that contingency it behoves us to look far ahead. India's export trade in respect of tea amounts to £20 millions annually. Sir, in this connection, with your permission, may I address one word of warning to tea planters and tea merchants? I am really at a loss to understand why tea planters and tea merchants scramble for foreign and American markets? Why do they not recognise that they have a most splendid market at their own doors and that they have millions at their own gates? I earnestly hope that tea will become the staple drink of the Indian worker in place of spirituous drinks. If I were a tea planter, I would leave no stone unturned to bring home to all India the advantages of drinking tea as compared with the suffering, misery, and ruin brought on thousands and tens of thousands of families by spirituous drinks. The Government of India and the Indian Delegation have fully safeguarded the economic and fiscal policy of India. For what they have achieved at Ottawa the Indian Delegation deserve great credit; and I feel peculiar pleasure in giving vent to expressions of congratulation to the Leader and Members of the Indian Delegation, and I will go further and say that the Indian Delegation have laid India under an obligation which will not soon be forgotten. So far as I understand the Ottawa Agreement, the position is this—by accepting the Ottawa Agreement India and England will come closer together in a spirit of mutual helpfulness; but by rejecting this offer of reciprocity, India and England will drift apart—what is more, the diversity of views and interests, political and otherwise, will grow acute and will continue to grow more acute, unless something is done to reverse the current, and that something is the ratification of the Ottawa Agreement. Sir, it cannot be expected that this business Agreement affecting many different interests in different ways can commend itself to everybody. But I earnestly hope that this great experiment in promoting economic co-operation will have the warm approval and support of this Honourable House.

Mr. Bhuput Sing (Bihar and Orissa: Landholders): In order to discuss the Ottawa Agreement, a few words are necessary to explain the dramatic change in the economic policy of Britain, from free trade to protection, as well as of the British demand for Imperial Preference in recent times. First, the steady decline of British imports into this country in recent years which fell from 64.2 per cent. in 1913-14 to 34.4 per cent. in 1931-32. Next, the Congress boycott of British goods has played not an insignificant part in reducing Britain's share in our imports during the past two years. Over and above this, for causes which were beyond our control, British exports to all countries have been declining for many years past. Britain is thus losing her industrial leadership, which she enjoyed undisputed for a little over a century after the industrial revolution. This has, therefore, been a very serious matter for the United Kingdom, also for the rest of the British Empire; because the United Kingdom, as the Indian

Fiscal Commission described it, is the "heart of the Empire", on whose strength depends the strength and cohesion of the Empire. The strength of the United Kingdom is bound up with the prosperity of its export trade. The conclusion, therefore, follows that "unless the United Kingdom maintains its export trade, the heart of the Empire will weaken, and this is a contingency to which no part of the Empire can be indifferent". From the point of view of India particularly, this is a frightful contingency which must not be allowed to happen. Our responsibility in the matter is all the greater, because India is one of the greatest potential markets for British goods.

We have statistics to show that in 1903 approximately 43 per cent. of our exports went to the British Empire, the average share of the British Empire in our exports during the quinquennium 1927-28 to 1931-32 was 38.4 per cent. Thus, at the present time, a little more than 61 per cent. of our exports find a market in foreign non-British countries. Our exports have successfully competed in foreign markets more by reason of their cheapness rather than for their quality and kind, and in this respect there has been no change for the better during the last thirty years. The steadily rapid decline of British exports since 1920-21 has started the cry for strengthening the heart of the Empire and attempts have now and then been made to that purpose. The recent Ottawa Conference is the ultimate desperate attempt in that direction, and the patent object of Imperial Preference is to exclude imports into India from the countries of Great Britain's rivals. Such being the case, the success of the policy will be judged by the extent to which Great Britain is enabled by this means to recover her lost market in this country. But it is a significant fact that both as regards the volume and the value of the trade, the whole British Empire imports less from India than it exports to that country. In other words, India's trade with the countries intending to join the Imperial Preference system is pronouncedly passive. It stands to reason, therefore, that this circumstance cannot hold out much inducement to Indians to grant those countries additional advantages now in the shape of special preference, because it is vitally important that India should not lose the large trade she is now doing with the rest of the world outside the British Empire.

So, as I have observed already, at present not more than 40 per cent. of her exports goes to the British Empire, while the remaining 60 per cent. is absorbed by other countries and her trade with the latter countries is, to a great extent, active. Commending on this notable fact that the British Empire buys far less from India than it sells to the markets of the countries under the British Empire, the Department of Overseas Trade has made the following remark:

"It is of great potential source of weakness that the United Kingdom should normally take from India a much less value of goods than the exports to India. Apart from the striking of economic loss there has, for many years, been a tendency all over the world for a country to purchase its imports from those countries which are the most important customers for its own produce."

The exclusion of the foreigner from the Indian market will reduce his power of purchasing our raw materials. For example, Japan at present utilises something less than half of our exports of raw cotton. It is reasonable to presume then, that Japan will buy less of our cotton if we make it impossible for her to sell her cotton goods in this country. The Imperial Preference would naturally provoke retaliation, in which event the loss of the Indian market abroad will inevitably lead to a reduction in the

[Mr. Bhuput Singh.]

demand for Indian raw materials. I may just mention here in passing that Lord Curzon's Government regarded the danger of retaliation as real and potential when the question of Imperial Preference was once mooted here during his Viceroyalty. Imperial Preference will impoverish the Indian consumers by raising the prices of manufactured goods and it will also impoverish the Indian growers of food stuffs and raw materials by reducing the foreign demand for our exports. Where is the guarantee that as the demand of our exports to foreign countries will decrease as a result of possible retaliation the loss occasioned to us thereby will be made good by a corresponding increase in the demand of the Empire? A country that exports largely food stuffs and raw materials and imports largely manufactured goods can grant preferences of substantial value but receive none of any great value for itself. Take, for example, our wheat exports. The quantity exported in 1931-32 was a little over 20,000 tons valued at 15 lakhs, but in 1924-25 we exported over one million tons of wheat valued at 17 crores of rupees. Will any one show how Imperial Preference will revive our wheat export? Imperial Preference should not, therefore, be acceptable to India as it is a policy conceived wholly in the interests of Britain as it means protection for British manufacturers at the expense of Indian consumers and producers. It really means our political subjection on the one hand and economic disorganisation on the other. Then, again, the Imperial Preference decision arrived at Ottawa has been an one-sided affair so far as this country is concerned. Do we receive any sort of reciprocation from the arrangement? Do we get the free right to immigrate into and colonise the Dominions and Colonies by way of inducement in return? No, there is nothing sanctioned anywhere to that effect. We should, therefore, reject such a selfish and one-sided Agreement which aims at our ultimate economic subjection without conferring on us any tangible benefits, direct or indirect, present or future.

Sir, with these words, I beg to oppose the Resolution.

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

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

Mr. S. O. Mitra (Chittagong and Rajshahi Divisions: Non-Muhammadian Rural): Sir, I do not know the attitude of the Government as regards the several amendments that have been moved and discussed these four days. I think that the Government may be agreeable to accepting the amendment of my friend, Dr. Ziauddin Ahmad, with some alteration, but I am not yet sure whether they have finally agreed to accept that amendment. In any case I think there is no chance of the amendment of my Honourable friend, Mr. Das, being accepted by this House, because I found as if there was a tacit agreement amongst the Members not to refer to the political aspect of this great question. (Sir Muhammad Yakub: "Quite right.") My Party have also decided that they will judge this issue from the economic point of view only. But that is no reason why I should not put forward my personal views on this subject. I think it is agreed that political pressure is the only weapon in the armoury of a subject nation that can be effectively applied to correct the wrong

attitude of the ruling nation and I do not know on what consideration we Indians should, of our own accord, deprive ourselves of this great right. Sir, it has all these years been said that this question of Imperial Preference should only be considered when India has got responsible Government. As a matter of fact, an agreement implies two independent parties who have the free will to exercise their discretion. A consensus of opinion can be expected only from free people. Here of course the Agreement has already been arranged between the British Government and the Indian Government, but its ratification is essential to show that this Agreement is shared by the respective nations. There is no hurry, because it has been admitted by the Honourable the Commerce Member himself that the 15th of November is not now the crucial date. So I do not know what other arguments Government can have not to accept the amendment of my friend, Dr. Ziauddin Ahmad.

From the economic standpoint, even laymen can see that India's export trade with Great Britain is only one-half of that of her trade with other countries. The latest figures show that only 35 per cent. of the export trade is with England, while the remaining 65 per cent. is with other countries. The only reason that has been urged why we should be forced to accept hastily this Agreement is, that, because of the British Import Duties Act there may be a danger of our sustaining losses in respect of the 35 per cent. of our trade with England, but if that be so, I think it applies doubly so far as the other 65 per cent. of our trade with other countries is concerned. The same argument, that because of the British Import Duties Act we may suffer in respect of 35 per cent. of our export trade, doubly applies as regards the 65 per cent. of our trade with other countries. I know my Honourable friend, Mr. Mody, has said that the question of retaliation is not a serious question, but I find, on the authority of a great expert on International trade and finance, Sir Arthur Salter, and he says this, speaking on the Ottawa Agreement:

"Other countries will certainly resent the increased preference in some cases and may translate their resentment into action. Take the case of Canada, for example. She has the closest trade relations with America, and much American capital is invested in the Canadian money market. . . . The new preferences must be mainly at the expense of these customers. An American Bill to introduce a new differential tariff against countries with a depreciated exchange to compensate for the so-called exchange dumping has already been threatened once. But the chances of some such proposal being renewed are obviously increased by the new preferences."

So I think that the question of retaliation from other countries is not a remote possibility when I have it on the authority of such a great International expert and that it may be a probability. So we cannot entirely exclude the idea of our export trade with other countries—which is 65 per cent. and almost double of that with England—suffering and that factor must not be lost sight of.

Then the Honourable Dr. Meek said that these privileges that we are having with England have worked now for the last eight months, and the Honourable Mr. Chetty suggested that the "super-patriots" of Bombay care certainly at least for their self-interest. Now, Sir, if these preferences that we are getting for the last eight months had been really of any benefit, we could certainly have expected our business men, our merchants and our traders running to the Honourable the Commerce Member for his assistance to get this Agreement accepted by this House. But instead of that we have found in this great House that it is only the two gentlemen who have been parties at Ottawa, and our friends, the Members of the

Sir Hari Singh Gour: Sir, I crave the indulgence of the House, with your permission, to move the following amendment:

That for the original Resolution the following be substituted:

That the Trade Agreement made at Ottawa between the Indian and British Delegations be referred for scrutiny and report to a Committee of the Assembly consisting of the Honourable Sir Joseph Bhowe, the Honourable Sir Alan Parsons, Mr. R. K. Shanmukham Chetty, Seth Haji Abdoola Haroon, Mr. F. E. James, Mr. Muhammad Yamin Khan, Dr. F. X. DeSouza, Mr. B. Das, Mr. C. S. Ranga Iyer, Sir Abdur Rahim, Mr. H. P. Mody, Dr. Ziauddin Ahmad, Mr. B. Sitaramaraju, Sir Zulfiqar Ali Khan, and the Mover, with instructions to report by the 21st November, 1932, and that the further consideration of the Resolution moved by the Honourable Sir Joseph Bhowe on Monday, the 7th November, 1932, be postponed until the report of the Committee has been presented to the Assembly.

Mr. D. K. Lahiri Chaudhury (Bengal: Landholders): May I ask whether experts will be consulted?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): That will arise when the amendment is put before the House. The Chair understands that the leading Members of the Assembly have put their heads together and are asking the Chair to grant permission to Sir Hari Singh Gour to move the amendment which he has just read out. I take it that it is the general wish of the House that the proposed amendment should be allowed to be moved and the Chair grants permission to the Honourable Member to do so.

Sir Hari Singh Gour: I shall require very few words to commend my amendment to the acceptance of the House. One of the Honourable Members on my side of the House interjected a query and asked whether experts will be consulted. In fact, it is for the purpose of summoning and hearing experts that we have consented to sit on this Committee, because we are anxious to hear both sides of the case and to thoroughly examine the question in the light of the facts that we have read and the examination of experts whom we propose to summon.

Mr. D. K. Lahiri Chaudhury: That is all right.

Sir Hari Singh Gour: At the same time, we are naturally anxious that our enquiry should conclude as expeditiously as possible and, therefore, we have fixed the date as the 21st November, 1932. With these few words, I commend my amendment for the acceptance of the House.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Further amendment proposed:

"That for the original Resolution the following be substituted:

That the Trade Agreement made at Ottawa between the Indian and British Delegations be referred for scrutiny and report to a Committee of the Assembly consisting of the Honourable Sir Joseph Bhowe, the Honourable Sir Alan Parsons, Mr. R. K. Shanmukham Chetty, Seth Haji Abdoola Haroon, Mr. F. E. James, Mr. Muhammad Yamin Khan, Dr. F. X. DeSouza, Mr. B. Das, Mr. C. S. Ranga Iyer, Sir Abdur Rahim, Mr. H. P. Mody, Dr. Ziauddin Ahmad, Mr. B. Sitaramaraju, Sir Zulfiqar Ali Khan, and the Mover, with instructions to report by the 21st November, 1932, and that the further consideration of the Resolution moved by the Honourable Sir Joseph Bhowe on Monday, the 7th November, 1932, be postponed until the report of the Committee has been presented to the Assembly."

The Honourable Sir Joseph Bhowe (Member for Commerce and Railways): Sir, during the course of the debate

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member is not replying to the debate.

The Honourable Sir Joseph Bhowe: I am making merely an explanation. Sir, during the course of the debate, it has, I think, become fairly clear that there is a considerable section of this House that is not opposed to the principle of the Ottawa Agreement. They desire some further time for consideration of its implications, its consequences and its results. There seems to be a general feeling that the House would be greatly assisted if a Committee of this House will sit and examine these results and implications. In so far as we are concerned

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Chair does not wish to interrupt the Honourable Member. It would be better if the Honourable Member merely stated that Government would accept the amendment. I will give the Honourable Member a chance, at the conclusion of the debate, to reply and he can then explain his position in full.

The Honourable Sir Joseph Bhowe: The Government accept the amendment. (Cheers.)

Mr. President (The Honourable Sir Ibrahim Rahimtoola): If no other Honourable Member wishes to address the House, I will call upon Sir Joseph Bhowe to reply.

The Honourable Sir Joseph Bhowe: I thank the Chair for the courtesy in giving me this opportunity, but I have nothing further to say at present.

(At the suggestion of the Honourable the President, with a view to maintaining *status quo* by the time the Committee reports, Sir Hari Singh Gour altered his amendment so as to postpone the original Resolution and all the amendments moved thereto until the Report of the Committee has been presented to the Assembly.)

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That for the original Resolution the following be substituted:

That the Trade Agreement made at Ottawa between the Indian and British Delegations be referred for scrutiny and report to a Committee of the Assembly consisting of the Honourable Sir Joseph Bhowe, the Honourable Sir Alan Parsons, Mr. R. K. Shanmukham Chetty, Seth Haji Abdoola Haroon, Mr. F. E. James, Mr. Muhammad Yamin Khan, Dr. F. X. DeSouza, Mr. B. Das, Mr. C. S. Ranga Iyer, Sir Abdur Rahim, Mr. H. P. Mody, Dr. Ziauddin Ahmad, Mr. B. Sitaramaraju, Sir Zulfiqar Ali Khan, and the Mover, with instructions to report by the 21st November, 1932, and that the further consideration of the Resolution moved by the Honourable Sir Joseph Bhowe on Monday, the 7th November, 1932, and the amendments moved thereon be postponed until the Report of the Committee has been presented to the Assembly."

The motion* was adopted.

Mr. D. K. Lahiri Chaudhury: Sir, I want a ruling on one point. After the publication of the report by the Committee that is to be appointed in

*On the 15th of November, 1932, with the consent of the House, the form of the motion was changed (*vide* L. A. Debates of that date).

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LEGISLATIVE ASSEMBLY. [10TH NOVEMBER 1932.]

[Mr. D. K. Lahiri Chaudhury.]

pursuance of the amendment carried by the House just now, will the same Honourable Members who have already spoken on the Resolution be allowed to speak again?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Chair does not wish to commit itself at present, as to what will be done at the time. It will all depend upon the new matter which may be introduced in the report of the Committee. The new matter so introduced will certainly be allowed to be fully discussed by the House.

STATEMENT OF BUSINESS.

The Honourable Sir Brojendra Mitter (Leader of the House): With your permission, Sir, I desire to make a statement as to the probable course of Government business in the week beginning Monday, the 14th. As at present directed by you, Sir, the House will sit for the transaction of Government business on Monday, the 14th, Tuesday, the 15th, Wednesday, the 16th, and Thursday, the 17th. On Monday motions will be brought forward to take into consideration and pass the Bill to supplement the Bengal Suppression of Terrorist Outrages Act, 1932. It has been brought to my notice that copies of the Bengal Act are not yet available in the Library and I have accordingly made arrangements to have copies distributed to Members. The next item which it is hoped to take up before the conclusion of the week is the motion to take into consideration the Bill to amend the Criminal Law, as reported by the Select Committee. I have only to add that on Wednesday, the 16th, the report of the Public Accounts Committee will be presented by the Honourable the Finance Member.

The Assembly then adjourned till Eleven of the Clock on Monday, the 14th November, 1932.

LEGISLATIVE ASSEMBLY.

Monday, 14th November, 1932.

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

QUESTIONS AND ANSWERS.

SPEECH DELIVERED BY KHAN SAHIB MALIK KARAM DIN, TELEGRAPH MASTER, LAHORE, IN THE MEETING OF THE INDIAN POSTS AND TELEGRAPHS MUSLIM UNION, LAHORE.

1109. ***Mr. B. Das:** (a) Is it a fact that Khan Sahib Malik Karam Din, Telegraph Master, Lahore, delivered a speech in the meeting of the Indian Posts and Telegraphs Muslim Union held in Barkat Ali Hall, Lahore, on the 10th July, 1932 (which is reproduced on pages 5—7 of the *Postal Advocate* for July, 1932), in which he characterised the Hindus as "crafty and wolves in sheep's clothing, belonging to a class which measures everything in rupees, annas and pies and feeling no scruples to achieve their ends", condemned Government by remarking that the Muslim interests are not safe even in the hands of Government; and dwelt upon politics by stating that Mahatma Gandhi offered to the Muslims a blank cheque which ultimately proved to be a bait and a hoax?

(b) Is it a fact that the said Khan Sahib is the Secretary of the Telegraph Co-operative Credit Society which has in its fold shareholders of all the chief communities, Hindus, Muslims, Sikhs and Christians, and the Postmaster General, Punjab and North-West Frontier Circle is the *ex-officio* President of the Society?

(c) Was the speech in question specially brought to the notice of the Postmaster General by the shareholders or any other organisation?

(d) If the replies to parts (a), (b) and (c) are in the affirmative, will Government please state whether any action was taken by the Postmaster General, in his capacity as President of the said Society and as head of the Circle, against Malik Karam Din for his above-mentioned utterances?

(e) If no action has so far been taken by the Postmaster General, will Government please state what action is proposed to be taken now?

The Honourable Sir Frank Noyce: (a) The attention of the Honourable Member is invited to the reply to part (a) of question No. 123, asked on the 30th September, 1932, in the Council of State.

(b) and (c). Yes.

(d) He has been personally warned by the Postmaster General that a repetition of utterances of this kind will involve serious consequences.

(e) Does not arise in view of the reply to part (d).

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LEGISLATIVE ASSEMBLY. [10TH NOVEMBER 1982.]

[Mr. S. C. Mitra.]

European Group, and Government are only anxious to get this Agreement ratified by the House without any response from the Public. No anxiety from those people who, for the last eight months, are supposed to be getting advantages, appears to be evinced, although it is threatened that unless we accept this Agreement they will be deprived of this great advantage. Now the trade people are certainly guided not by any malicious spirit to spite the Government. They are certainly expected to look to their own interest, and the very fact that there is no anxiety on the part of these people shows to my mind at least that a *prima facie* case has not been made out that it is of such great benefit as has been suggested here from the Government side and the European Group. Further, it has been said that 16 other countries—not the Dominions—but other countries are most anxious to enter into this ring in order to get the advantages. Now, if the ring is enlarged to that extent, then I think the little benefit claimed will be much reduced. Now it is really clever of the British Government, who are now finding the worst competition from outside, to put some pressure on other countries to secure better terms for their own trade that this Pact has been agreed to and not for any advantage to India.

Sir, there has been no contraction for the demands of our produce in the world, nor has there been any unfairness or severity of competition from our rivals for our produce. Our difficulty is really the disastrous fall in commodity prices in India. So, the main argument that we will get a better or wider scope for our exports is really not a point at issue. Further, it is not a fact that we have a surfeit of goods. Increased facilities for the export of raw materials may prejudice the economic development of this country. We have starving millions in India. It is really very doubtful if India will derive any benefit by exporting all her foodstuffs and other raw materials which should really be detained in India for the development of Indian industry and supplying food for her starving millions.

As regards the economic issue, any differential tariff really means a loss to the Government revenue and in this financial stringency this loss of revenue will mean an additional taxation on the people at large or the tariff is to be raised to that extent if the Customs revenue is to supply that deficiency in the Budget. In that case, the consumers shall have to pay ultimately this additional taxation. I think the Honourable the Finance Member said that it would not affect the financial condition in the Budget because of this differential duty. What he expects perhaps is to raise the duties to a certain extent and he contends that if the differential duty of 10 per cent. is maintained, it may not be that the whole amount of this differential duty will affect the finances to the whole extent. That is certainly correct. But it only means that a part of the loss will be met from raised tariff and the other part from the consumers in the shape of higher prices of these commodities.

Sir, I do not like to go into these individual items. The very fact that Britain refused to accept any duty on raw cotton shows that they are certainly anxious to have their raw materials at the cheapest rate and are not very anxious to help Indian agriculture or Indian industry in any way.

Now, Sir, I wish to say just a word or two about the procedure that the Government should adopt as regards the voting on this Resolution. My friend, Mr. Raju, gave notice of a short question to find out whether the Official Members will take part in the Division. I understand that the Honourable the Leader of the House refused to answer it and he wants a regular notice for this question which he would answer after ten days when this matter is likely to be concluded. (Mr. Gaya Prasad Singh: "That is a clever subterfuge.") But if the Leader of the House wants a precedent for the Non-Officials alone to take part in a voting, I can only refer him to the election that takes place for the Public Accounts Committee. In that election, only the Non-Official Elected Members of the House take part in voting and this has been provided by the rules and regulations and the Public Accounts Committee is a Statutory body. So, if the only difficulty of the Honourable the Law Member is to find a precedent for such a procedure, I would invite him to look to the procedure of the election of the Public Accounts Committee.

Mr. B. Sitaramaraju: May I interrupt the Honourable Member? In today's papers I have seen that the Secretary of State has said that he is not leaving the matter to the vote of the Non-Official Members of the Assembly.

Mr. S. C. Mitra: I am thankful to the Honourable Member for mentioning that fact. I think the Secretary of State is anxious that the Nominated Members who represent in this House labour and other interests should not be deprived of their privilege. I fully agree with him and I shall be the last person to suggest to deprive the Nominated Members of this right.

Sir Abdulla al-Munim Suhrawardy (Burdwan and Presidency Divisions: Muhammadan Rural): But the Nominated Labour Member is already on the high seas.

Mr. S. C. Mitra: My friend, Sir Abdulla Suhrawardy, says that the Secretary of State was so much interested in the Nominated Labour Member that he has invited him to England and thus deprived him to exercise his vote here. In any case, my point is that the official block, which represents no body, may not take part in this Division.

Lastly, I would like to say one word about Mr. Chetty's remarks about the Bombay magnates. He said that they were all interested in this affair. I know that the Honourable Mr. Shanmukham Chetty is not in any way interested in these affairs, because yarn is not an article mentioned in this Agreement, nor is sugar mentioned in the Agreement which makes the position of Seth Abdoola Haroon free, though I understand, he has ordered for certain machinery from Germany and thus he proposes to do full justice to the Pact. But I have authorities of other experts from my part of the country, men like the President of the Bengal National Chamber of Commerce and other gentlemen, but I do not like to quote their views today, because I understand that Government are in a mood to accept Dr. Ziauddin Ahmad's amendment and, for the present, I think we should keep an open mind before we come to any decision.

PREPONDERANCE OF MUSLIM POSTAL OFFICIALS AT JHELMUM.

1110. *Mr. B. N. Misra: (a) Is it a fact that the Postal administration at Jhelum is entirely in the hands of Muslim officers, viz., the Superintendent, Post Offices, the Head Clerk to Superintendent, Post Offices, the Inspector of Post Offices, Jhelum Sub-Division, the Postmaster and Deputy Postmaster, Jhelum, the Town Inspector, Jhelum, and the Head Correspondence Clerk, Jhelum Head Office, are all Muslims?

(b) If the reply to part (a) be in the affirmative, will Government please state why no action has been taken to remove this overwhelming preponderance of Muslim officers at one station?

The Honourable Sir Frank Noyce: (a) Except that the Deputy Postmaster, Jhelum, is a Hindu, the facts are as stated by the Honourable Member.

(b) Government do not propose to interfere in the matter which is within the competence of the Postmaster General, Punjab, to whom a copy of the question has been sent.

Mr. B. N. Misra: Are Government aware that the Inspector is a resident of the Jhelum district?

The Honourable Sir Frank Noyce: I was not aware of that.

Mr. Muhammad Anwar-ul-Azim: Will the Honourable Member kindly tell us what is the position of the post offices at Puri and Cuttack, in view of the reply just given to Mr. Misra?

The Honourable Sir Frank Noyce: I am afraid I must ask for notice of that question.

Mr. Lalchand Navalrai: Will the Honourable Member be pleased to state what is the communal policy of Government in keeping Muhammadans or Hindus in one post?

The Honourable Sir Frank Noyce: As a rule postings are made without reference to communal considerations.

DRAWING OF LESS PAY BY CERTAIN OFFICERS OF THE NORTH WESTERN RAILWAY.

1111. *Dr. Ziauddin Ahmad (on behalf of Mr. Muhammad Muazzam Sahib Bahadur): (a) Is it a fact that on the North Western Railway certain officers drew pay for February, 1932, for one week only?

(b) Is it a fact that if they had drawn pay for the full month, they would have had to pay a higher rate of income-tax?

(c) Is it permissible for an officer to draw pay for only one week in any month?

(d) If the answer to part (b) be in the affirmative, was it not the duty of the Chief Accounts Officer not to permit such an arrangement?

(e) Will Government state what officers resorted to this practice and whether the Chief Accounts Officer himself was one of them?

(f) What action do Government propose to take against the officers concerned and against a recurrence of this practice?

Mr. P. B. Rau: (a) and (e). I am informed that two officers, of whom the Chief Accounts Officer was one, drew pay for only part of February.

(b) Yes.

(c) and (d). The question whether such a practice is permissible under the existing rules is under investigation.

(f) The question is under consideration.

INTRODUCTION OF AN EQUITABLE SYSTEM OF THE MOVE DOWN TO DELHI BY ROTATION OF THE ARMY HEADQUARTERS CLERICAL ESTABLISHMENTS.

1112. *Mr. Lalchand Navalrai (on behalf of Mr. S. G. Jog): (a) Will Government be pleased to state whether it is a fact that a certain portion of the Army Headquarters clerical establishments has been regularly moving to Delhi during the winter months and that a certain portion is left at Simla from year to year?

(b) Is it a fact that the majority of the clerical establishments left at Simla during the winter belong to the plains?

(c) Is it a fact that British troops have a fixed duration of service in India and that even during this short period arrangements are made to send them to hill stations to avoid an adverse effect upon their health on account of stay in the plains during the summer?

(d) Have Government considered the question as to whether permanent stay in the rigorous climate of Simla winter with its snowfalls has a similar adverse effect upon the health of persons belonging to the plains as the hot climate of the plains has upon persons belonging to cold countries?

(e) Is it a fact that certain grades of clerical establishments receive no winter allowance at Simla whereas, in addition to the travelling allowance, an allowance of thirty per cent. per mensem is granted to persons of the same grades moving down to Delhi?

(f) Are Government aware that Simla is much more expensive than Delhi and that the establishments remaining in Simla during the winter, particularly those not in receipt of any winter allowance, besides undergoing the rigours of the Simla winter, have to incur considerable additional expenditure in the provision of heating arrangements in their residences, in sending their families to their distant native places in the plains, and in maintaining double establishments?

(g) Is it a fact that certain branches of Army Headquarters which used to move in toto in previous years now move in part and certain offices, e.g., Army Department, Royal Air Force (whose Headquarters were at Ambala previously) and the office of the Military Accountant General now move in much greater strength and that the change in moving strength has not resulted in administrative deterioration or efficiency?

(h) Do Government know that the rigours of the Simla winter and the monetary loss involved cause a genuine heartburning amongst the non-moving ministerial establishments of the Army Headquarters offices?

(i) Are Government prepared to take steps:

(i) to increase the moving strength of the Army Headquarters offices, if necessary by the curtailment of the move of the Attached Offices and Civil Secretariat Offices which have so far been moving *in toto*; and

(ii) to introduce a system of move by rotation, either of entire offices or self-contained parts thereof, so that all members of the clerical establishments may have an opportunity of passing the winter in Delhi by turn?

Mr. G. R. F. Tottenham: (a), (b) and (c). Yes.

(d) I can only say that the practice has been in existence for many years without noticeable ill effects.

(e) Winter allowance is granted to the lower grades of the clerical personnel in Simla: it is not admissible to first division assistants. An allowance on a sliding scale, called the Delhi moving allowance, is granted to all assistants and clerks of Army Headquarters who move down to Delhi, in order to compensate them for being away from their headquarters station and for having to maintain two establishments.

(f) Government do not admit that this is the case.

(g), (h) and (i). The move of any portion of Army Headquarters is determined not by the individual convenience of officers or clerks, but by considerations of administrative efficiency, subject to the restrictions imposed by the limited amount of residential and office accommodation available in Delhi.

This being so, it is not possible either to increase the moving strength of Army Headquarters or to move the offices by rotation.

INTRODUCTION OF AN EQUITABLE SYSTEM OF THE MOVE DOWN TO DELHI BY ROTATION OF THE ARMY HEADQUARTERS CLERICAL ESTABLISHMENTS.

1113. ***Mr. S. G. Jog:** (a) Is it a fact that, as a result of representation made by the clerical establishment employed in the Master General of Ordnance Branch, a certain portion of the establishment of that Branch was included under the "moving" category in 1931 by a corresponding reduction in the moving strength of other branches?

(b) Is it a fact that the Master General of the Ordnance in India, in spite of the small quota of the moving strength sanctioned last year for his Branch, which was previously non-moving, has arranged that, as far as practicable, different self-contained sections of the office should move to Delhi each year so that all members of the establishment may have a chance of moving to Delhi?

(c) Are Government prepared to issue instructions forthwith to Heads of Branches in the Army Headquarters to adopt the system referred to in part (b) and relax the rigid sanctioned strength of officers and clerks for each Branch to enable self-contained parts of offices to move by rotation?

(d) Are Government prepared also to proceed with the question of increasing the moving strength of the Army Headquarters offices and adopting an arrangement of move by rotation, in the case of all Army and Royal Air Force Headquarters offices?

Mr. G. R. F. Tottenham: (a) The number of clerks of the Master General of the Ordnance's Branch moving to Delhi was not increased in consequence of representation from the clerical establishment: the increase was necessitated by reasons of administrative convenience and efficiency.

(b) The reply is in the negative.

(c) and (d). No, Sir, for the reasons stated in reply to parts (g), (h) and (i) of the previous question.

DEPORTATION OF POLITICAL PRISONERS TO THE ANDAMANS.

1114. ***Mr. S. O. Mitra:** (a) Will Government be pleased to state how many days before the actual date of deportation it was decided to send the first batch of prisoners to the Andamans?

(b) Are Government aware that on the 11th August, 1932, the Honourable Sir Pravas Chandra Mitter, Kt., Member in charge, Jails, Bengal, made a statement in the Bengal Legislative Council that the date of deportation was not fixed? If so, how was it that the deported prisoners were brought down to Calcutta from their respective jails only two days later, *viz.*, 13th August, and deported on the 15th morning?

(c) If not, will Government be pleased to state the reason for not stating the date of deportation?

(d) Is it not a fact that although queries were made by several relatives of the deported prisoners as to interview and date of departure, no intimation whatsoever was supplied to them?

(e) Is it a fact that no facilities for interview prior to deportation were given and none of the relatives of the deported had any opportunity for the last interview except in the case of two prisoners whose relatives fortunately could arrange interviews on private information received by mere accident?

(f) If so, will Government please state the reasons for keeping even the old parents and wives of the deported in utter darkness about the fate of their dear ones?

(g) Are Government prepared to assure this House that in future no such hush-hush policy will be followed and prisoners' relatives will be afforded proper facilities to interview the prisoners before such deportation?

(h) Will Government please state:

(i) when the next batch will be sent;

(ii) how many more will be deported;

(iii) whether their relatives will be timely informed; and

(iv) whether they will be allowed interviews before departure?

The Honourable Mr. H. G. Haig: (a) Nine days.

(b) The Honourable Member in charge of Jails in the Government of Bengal stated on the 11th August that the definite dates of transfer had not been finally settled. The facts are that Government did not fix any date for the transfer of the prisoners. The Inspector-General of Prisons, on receipt of the Government order that these prisoners were to be despatched to the Andamans, took steps to collect them at the Alipore

Central Jail with a view to their transfer. As the Andamans steamer was to sail from the port on the 15th August, he fixed that date for the transfer of the prisoners.

(c) Does not arise.

(d) Government received no such queries.

(e) No. Facilities were given for interviews and six prisoners were interviewed by their relatives.

(f) Does not arise.

(g) and (h) (iii) and (iv). Facilities will be afforded as far as practicable.

(h) (i). A date has not been fixed, but it will probably be in January, 1963.

(h) (ii). The number will be decided later.

Mr. Gaya Prasad Singh: May I know why this hush-hush policy was adopted by Government? Is it because they apprehended some sort of attack for the purpose of rescuing the prisoners?

The Honourable Mr. H. G. Haig: No, Sir; I do not admit that there was any hush-hush policy. Only a short period elapsed between the decision to send these prisoners and the sailing of the ship, and it was on that ground that there was some difficulty in allowing interviews to the relatives of the prisoners who were at some distance from Calcutta.

Mr. S. C. Mitra: May I take it that in future relatives of these prisoners will get some opportunity, because transfer to the Andamans means an end of all interviews.

The Honourable Mr. H. G. Haig: I think the Honourable Member may be satisfied that, as far as possible, notice will be given to the relatives.

FACILITIES FOR POLITICAL PRISONERS IN THE ANDAMANS.

1115. ***Mr. S. C. Mitra:** (a) Will Government inform the House if it is a fact that the prisoners deported to the Andamans are not getting the same facilities as they used to get in Bengal jails in the matter of writing letters and in the supply of meals and clothes?

(b) Will Government be pleased to state what arrangement has been made for cooking their meals?

(c) Will Government be pleased to state if the prisoners are treated in accordance with their classification?

The Honourable Mr. H. G. Haig: (a) No. In general the Bengal rules are followed.

(b) I replied to this question on the 20th September in answer to the Honourable Member's starred question No. 518.

(c) I refer the Honourable Member to the reply which I gave to Mr. Bhuput Singh's starred question No. 294 on the 16th September last.

ISSUE OF FORTNIGHTLY BULLETINS AS TO THE HEALTH OF THE POLITICAL PRISONERS IN THE ANDAMANS.

1116. ***Mr. S. C. Mitra:** (a) Is it a fact that the eldest brother of Sushil Das Gupta, a deported prisoner, sent a reply-paid telegram to Sushil at Port Blair enquiring about his health on the 5th September, 1962, and the reply was suppressed?

(b) Have Government considered whether the health of the deported prisoners will be affected owing to the bad climatic condition of the Andamans?

(c) Are Government aware that the friends and relatives of the prisoners and the general public are much alarmed over the fate of the prisoners and, with a view to allaying such public feeling, are Government prepared to arrange for the issue of fortnightly bulletins as to the health of the deported prisoners?

The Honourable Mr. H. G. Haig: (a) The rules permit prisoners to send communications not more than once a month, and this rule is being observed.

(b) I would refer the Honourable Member to the reply which I gave to his starred questions Nos. 514 and 515 on the 20th September, 1962.

(c) Government are not prepared to take the action proposed.

Mr. S. C. Mitra: With reference to part (a), may I inquire if the relatives can send a wire reply prepaid to the Superintendent of the jail in order to have information that they are keeping good health, when there are rumours that they are not keeping good health?

The Honourable Mr. H. G. Haig: I am afraid the system of reply paid telegrams cannot be used to defeat the ordinary rules in jails.

Mr. S. C. Mitra: Will they specially consider the case of the deportees transferred to such an unhealthy place as the Andamans, when there are all sorts of rumours and their relatives are really apprehensive about their health? In that case will it be possible for Government only to say that they are keeping good health, when they get these reply prepaid telegrams?

The Honourable Mr. H. G. Haig: I see no reason for any departure from the ordinary rules.

TEMPORARY STAFF ATTACHED TO THE OFFICES OF THE ACCOUNTANT GENERAL, BENGAL, AND THE LATE EXPERIMENTAL ACCOUNTS AND AUDIT OFFICES AT CALCUTTA.

1117. ***Mr. S. C. Mitra:** (a) Will Government please refer to their answers to my starred questions put in this House in the Session of September, 1961, regarding temporary staff attached to the offices of the Accountant General, Bengal, and the late Experimental Accounts and Audit Offices at Calcutta, and state what action, if any, has since been taken to confirm all these men in service, who are now working in the offices of the Accountant General, Bengal, and Deputy Accountant General, Central Revenues, Calcutta? If not, why not?

(b) Is it a fact that a number of temporary men, employed in the office of the Accountant General, Bengal, Calcutta, whose dates of first appointment in service are later than that of the temporary men employed in the late Experimental Accounts and Audit Offices, Calcutta, have been made permanent after 26th March, 1926, in the parent office (*viz.*, Accountant General, Bengal), in contravention of the Auditor General's orders conveyed in his Circular letter No. 1474-E./441-A.-/25, dated the 26th March, 1926?

(c) Is it a fact that the orders contained in the Government of India, Finance Department, letter No. D.-4523-Ex. I-31, dated the 9th July, 1931, debarring the confirmation of men appointed after 16th July, 1931, do not apply to any of these men? Do Government know that these men are still in temporary status due to the non-observance of the Auditor General's Order of 1926 quoted above?

(d) Is it not a fact that the temporary service rendered by the men employed in Sukkur Barrage Audit Office has been allowed to count for leave and pension in Government of India, Finance Department, letter No. 2353-F. E., dated the 29th September, 1928? If so, do Government propose to count the past temporary services of these men, rendered in the Experimental Accounts and Audit Offices, Calcutta, towards leave and pension, when they are eventually made permanent?

(e) Are Government aware that these men are serving temporarily for periods even extending over eight years? Are Government prepared to exempt them from medical examination under Fundamental Rule 10?

(f) Is it a fact that certain privileges regarding leave are enjoyed by the temporary staff of the office of the Comptroller, Assam, whose services were over five years? If so, are Government prepared to extend to these men all those privileges enjoyed by permanent men during the period for which they are kept as temporary?

(g) Are Government aware that during last retrenchment some of these men were discharged and subsequently re-employed on the minimum pay of their time-scale?

(h) Is it a fact that their discharge is due to proper effect not being given to the Auditor General's order of 1926 at the right time? If so, do Government propose to re-employ them on their old pay and condone the breaks in their services at the time of their confirmation? If not, why not?

The Honourable Sir Alan Parsons: (a) The question of bringing on to a permanent footing such temporary posts as are permanently necessary in the two offices is under consideration. No special action has been taken in regard to the confirmation of the temporary men in these offices; the question of their confirmation will be considered in the usual course as vacancies occur.

(b) The attention of the Honourable Member is invited to paragraphs 2 and 4 of the note sent to him in connection with his starred question No. 1149, asked on the 3rd October, 1931. A copy of the note is laid on the table.

(c) Yes. In this connection also I would refer the Honourable Member to the note just mentioned.

(d) The answer to the first sentence of this part is "Yes", and to the second, "No". If the temporary posts held by these men eventually

become permanent, their past temporary service will count for leave and pension under the existing rules. Government do not propose to grant any further concession.

(e) Some men may have put in temporary service extending to about eight years; but all accepted employment with the full knowledge that it was purely temporary. Government are not prepared to allow a wholesale exemption from medical examination.

(f) So far as Government are aware, no such privilege is enjoyed by the temporary staff of the office of the Comptroller, Assam, but an enquiry is being made on the point.

(g) Yes. At the time of discharge, the men received certain money concessions which, it was intended, should wipe off all their claims on Government in respect of their past service.

(h) Here, again, the Honourable Member's attention is invited to the note mentioned above. Government are not prepared to issue general orders on this point, but individual cases of hardship will be considered if and when they are represented through the usual official channel.

Note explaining the procedure followed in regulating the discharge of temporary surplus personnel in connection with the amalgamation of accounts and audit offices at Calcutta.

In connection with the amalgamation of accounts and audit offices at Calcutta some difficulty has arisen in regard to the procedure to be followed in regulating the discharge of temporary surplus personnel. A similar difficulty is also sure to arise in connection with the amalgamation at Delhi. The problem is both important and somewhat complicated. Representations have been received from the staff of the offices which are going to be abolished and counter representations have been received from the staff of the offices with which they are to be amalgamated.

2. Briefly, the position regarding the staff employed in the experimental offices (outside the United Provinces and excluding the Central Accounts Office, P. W. D. and the treasury branches at Delhi and Bangalore) is as follows:

When the experimental offices were formed they took over work and personnel from the offices of certain Accountants General. In Calcutta the work and personnel were taken over from the offices of the Accountant General, Central Revenues and the Accountant General, Bengal—largely from the former. In consultation with the Officer on Special Duty (Mr. Jukes) the Auditor General held in 1926 that the new offices being still on an experimental footing could not be regarded as constituting separate entities. It was accordingly decided that the cadres of those offices should be treated as sub-divisions of those of the parent offices and the staff was thus considered as being borne on the cadre of the parent office. The permanent staff taken over continued to be borne on the cadre of the offices to which they originally belonged and the additional temporary staff sanctioned for the experimental offices was treated as temporary additions to the cadre of certain offices declared as the parent offices. For example, the Accountant General, Central Revenues, was considered as the parent office for the temporary staff at Delhi (excluding those in the Central Accounts Office, P. W. D.) and the Accountant General, Bengal, for those at Calcutta. In practice, recruitment to (and discharges in) the experimental offices were, however, made independently by the Officer on Special Duty. The heads of parent offices also confirmed the temporary staff working in their own offices ignoring the claims of the staff working in the experimental offices. In April last, on a representation received from the latter, the Auditor General re-affirmed the principles, laid down in 1926; but at the same time he observed that it would not be possible to put these into actual operation until financial conditions improved and the future constitution of accounts offices was more certain and that it was unlikely that any temporary men would be confirmed in the current year in view of the contemplated reduction in establishments. Although there has been no occasion for filling up vacancies permanently

since those orders were passed, the principle of common roster was applied in one case of discharge.

3. In connection with the impending reduction of establishments consequent on the amalgamation of accounts and audit the temporary staff of the experimental offices at Calcutta claim, with reference to the orders cited above, that the discharge of surplus should be regulated with reference to a common roster of staff in the parent office and its offshoots as had been done in one instance referred to above. The staff of the office of the Accountant General, Bengal, however, urge that the orders of 1926 gave the staff of the experimental offices only a theoretical right to be shown on the same cadre, that those orders had not been acted upon till 1931, that the orders of 1931 were no longer applicable as the circumstances in which those orders were passed had changed entirely and that as the staff of the experimental offices was recruited independently to purely temporary offices they had strictly no claim for retention in the office of the Accountant General, Bengal.

4. I have discussed the case with the Auditor General and the Controller of Civil Accounts and after a careful examination of the position the following conclusions were reached in the matter:

- Having regard to the fact that the offices created in connection with the scheme for the separation of accounts from audit were definitely regarded as experimental and the nature of work done in the parent offices and their offshoots was more or less the same, it was considered that the orders of 1926 were strictly correct and that they were rightly reaffirmed in 1931.
- It was inadvisable and impracticable to reopen the question of the non-observance of those orders till 1931. Permanent appointments already made must stand;
- The status of the additional staff employed in the experimental offices was essentially temporary, although they were sometimes, loosely called "quasi-permanent";
- The discharge of surplus staff should be regulated with reference to a common seniority list of all the temporary staff working in the experimental offices and the offices which were specified as their parent offices, thus ensuring the retention of men with longer service and larger experience.

5. In this connection it must be mentioned that there are two subsidiary points which also require to be settled. The first point (which is probably peculiar to the Calcutta offices only) relates to the period for which the principle of common roster should be observed. At Calcutta the principle should presumably be observed (with reference only to and) until all the men on the list of temporary staff as it stands on 30th November 1931 are confirmed in either of the two offices, namely, the office of the Accountant General, Bengal, and the Deputy Accountant General, Central Revenue. In other places there is no difficulty as (except at Peshawar to which the proposals in this note are not applicable as explained below) no new combined accounts and audit offices will be created as a result of the amalgamation.

The other point relates to the concessions granted to the surplus temporary staff of the experimental offices who may be discharged. The concessions in question are also apparently admissible to the staff who might be discharged in the parent offices as a direct result of the amalgamation and the decision to discharge from a common roster.

INSUFFICIENCY OF CLOTHES PROVIDED FOR PRISONERS IN THE AJMER CENTRAL JAIL.

1118. *Mr. S. C. Mitra: Are Government in a position now to answer the following questions put by me on the 29th March, 1982, viz., "Is the practice of supplying only one garment to prisoners prevalent in all the Centrally-administered areas? Has the prisoner to remain almost naked in all those prisons while that garment is being washed, or is that practice confined to the Ajmer Central Jail only?"

The Honorable Mr. H. G. Haig: I called for the information on receipt of notice of the present question and will communicate it to the House in due course.

REMISSION OF ONE MONTH'S SENTENCE TO A CONVICT NIGHT WATCHMAN FOR BEATING A POLITICAL PRISONER IN THE CENTRAL JAIL AT AJMER.

1119. *Mr. S. C. Mitra: Are Government aware of the fact that Siddiq, a convict night watchman, was awarded one month's remission for assaulting and beating a political prisoner named Lalchand in the Central Jail at Ajmer?

Mr. H. A. F. Metcalfe: With your permission, Sir, I propose to answer questions Nos. 1119 to 1126 together. The information is being collected and will be given to the House in due course.

STANDING HANDCUFFS GIVEN TO ONE JUGRAJ IN THE AJMER CENTRAL JAIL.

1120. *Mr. S. C. Mitra: Is it a fact that a person named Jugraj in the Ajmer Central Jail is mentally defective and that he is still sentenced to one year's rigorous imprisonment? Is it a fact that the same person was given standing handcuffs for not being able to grind his full quota of 15 seers?

BEATING OF A POLITICAL PRISONER BY THE JAILOR OF THE AJMER CENTRAL JAIL.

1121. *Mr. S. C. Mitra: Are Government aware of the fact that the Jailor of the Central Jail, Ajmer, beat Narain Singh, a young C class political prisoner, with a ruler on the 20th February, 1982, when the latter was on a hunger-strike?

DENIAL OF FACILITIES TO POLITICAL PRISONERS IN THE AJMER CENTRAL JAIL.

1122. *Mr. S. C. Mitra: (a) Is it a fact that C class political prisoners in the Ajmer Jail were deprived of the books and blankets duly allowed to them without showing cause to them for this action, and that they were left to sleep on the very rough munja straw mats and to shiver in the cold nights with one blanket only? Can a prisoner, according to the jail rules, borrow a book for sometime from his fellow-prisoner belonging to the same class? If so, why were such books confiscated in the Ajmer Jail?

(b) Is it a fact that Pandit Laduram Joshi was punished with one week's solitary confinement when he asked the Deputy Jailor to return the above to the prisoners?

(c) Was the confiscation of blankets and books a jail punishment? If so, why was it not recorded on the prisoners' tickets? Was the confiscation with or without the permission of the Superintendent? Are Government aware of the fact that the Superintendent flatly refused to give any hearing to Messrs. B. S. Deshpandi, Jainarayan Vyas, Nityanand Nagar, Swami Kumbhachand, Vaidhath Mohdya and others, when they stood to make complaints against the confiscation of books and blankets and against the half baked rotis supplied to the prisoners?

SLAPPING OF A LAME POLITICAL PRISONER IN THE AJMER CENTRAL JAIL.

1123. *Mr. S. C. Mitra: Is it a fact that Tara Singh, a lame political prisoner in the Ajmer Central Jail, was slapped by the orders of the

For answer to this question, see answer to question No. 1119.

Jailor for not being able to act up to the cautions of the Jamadar on the day of the search? Was he exempted from the parade and absolutely untrained?

LOSS OF WEIGHT OF CERTAIN POLITICAL PRISONERS IN THE AJMER CENTRAL JAIL.

†1124. *Mr. S. C. Mitra: (a) Are Government aware of the fact that Messrs. Nityanand Nagar, Kishore Bhai Shastha, Krishnanand and Hari Shanker, political prisoners in the Ajmer Central Jail, have each lost about 20 lbs. or more and yet suitable food is not being supplied to them?

(b) Are Government aware that prisoners losing weight are sometimes recommended hospital diet which consists of six *chhataks* of boiled rice and a pound of watery milk? Are Government aware that this diet is utterly insufficient to give a man adequate nourishment so as to enable him to regain his lost weight and vigour? Do Government propose to instruct the local authorities to improve the hospital diet both in quality and in quantity?

ILL-TREATMENT OF CERTAIN POLITICAL PRISONERS IN THE AJMER CENTRAL JAIL.

†1125. *Mr. S. C. Mitra: (a) Is it a fact that the non-official visitors recently appointed for the Ajmer Central Jail did not make any inquiries from the political prisoners, that they did not even acquaint either the political or the ordinary prisoners with their commission and that when the C class political prisoners themselves approached Mr. Dhan Pershad, Vakil, he refused to hear their complaints about the food and treatment accorded to the political and ordinary prisoners?

(b) Is it a fact that the Jailor had sent Mr. Hari Kinker, who is suffering from piles, to the jail kitchen? If so, why?

(c) Is it also a fact that Swami Kumaranand, Shri Jainarain Vyas and Mr. Ganeshi Lal also were sent to the kitchen? If so, why? Is it a fact that they complained against the jail food to Mr. Dhan Pershad, Vakil, the non-official visitor?

SUPPLY OF ONLY ONE MEAL TO "C" CLASS POLITICAL PRISONERS IN THE AJMER CENTRAL JAIL.

†1126. *Mr. S. C. Mitra: Is it a fact that "C" class political prisoners were given food only once a day for nearly four or five days in the beginning of October, 1982, in the Ajmer Central Jail?

PROMOTION OF INDIAN STATION MASTERS ON THE NORTH WESTERN RAILWAY.

1127. *Mr. Lalchand Navalrai: (a) Is it a fact that previously on the North Western Railway lower grade posts of station masters were given to Indians and higher grade posts to Europeans and Anglo-Indians and that these higher grade posts of station masters were filled from Europeans and Anglo-Indian guards?

(b) Is it a fact that eight grades of station masters have been made irrespective of caste and creed? If so, when? Is this rule in practice?

†For answer to this question, see answer to question No. 1119.

(c) Is it not a fact that Indian station masters with long service and more practical experience are still deprived of the higher jobs and these jobs are still given to guards having a short service and without any practical experience?

(d) Will Government be pleased to state how many Indian station masters of the lower grade have been taken in grades 4 to 8 since these grades have been adopted and how many guards have been given these jobs?

(e) Will Government be pleased to state how many Indian station masters are officiating in grades 4 to 8 and how many guards?

(f) Will Government be pleased to state how many Assistant Controllers and Traffic Inspectors are there on the North-Western Railway and how many of such posts have been given to Indian station masters?

Mr. P. R. Rau: I have called for certain information and will lay a reply on the table in due course.

RECRUITMENT OF THE CLERICAL ESTABLISHMENT OF THE OFFICE OF THE DIRECTOR OF CONTRACTS.

1128. *Mr. Lalchand Navalrai: (a) Is it a fact that when the Director of Contracts, Army Headquarters, wanted to take recruits for his clerical establishment through the Public Service Commission, he advanced the reason that he wanted clerks possessing commercial and business experience and knowledge?

(b) Has that consideration always prevailed in the appointments that he has since made in the clerical establishments of his office, or when clerks have been promoted to higher grades?

(c) Will Government please state what business or commercial qualifications the undermentioned clerks possess:

- (1) R. S. Tawakley,
- (2) D. N. Tewary,
- (3) K. K. S. Ayyar,
- (4) Sumair Chand,
- (5) J. N. Mustafy,
- (6) S. K. Mukerji,
- (7) H. K. Joshi, and
- (8) B. Nathaniel Sarebar?

(d) Is it a fact that Nos. 1, 2 and 8 above have failed to qualify for the First Division, but are now actually holding First Division appointments in the Director of Contracts' office?

(e) Is it a fact that Nos. 4, 7 and 8 have qualified only for the Third Division, but are holding posts in the Second Division?

(f) Is it a fact that No. 6 failed even to qualify for the Third Division, but is actually holding a Second Division appointment?

(g) Is it not a fact that candidates who failed to qualify at an open competition in the Public Service Commission secured employment in the office of the Director of Contracts?

(h) Are Government prepared to consider the question of reverting to the previous practice of recruitment through the Public Service Commission?

(i) If men of commercial and business knowledge are required, cannot the Public Service Commission recruit such men, as is done in the case of other superior and technical services, e.g., Railways, Forests, Education, etc.?

(j) Will Government please say what is the justification for permitting the Director of Contracts only to recruit his clerks direct, and not through the Public Service Commission?

(k) Do Government propose to make it a rule that recruitments in all departments of service in India should be made by competition through the Public Service Commission? If not, why not?

Mr. G. R. F. Tottenham: (a) Yes.

(b) No person is appointed on probation unless the Director is satisfied that he possesses the necessary experience or aptitude, or has been suitably trained; and in no case is a man confirmed in his appointment or promoted to a higher grade, until he has proved his fitness for the higher class of work peculiar to the Directorate.

(c) Government are not prepared to publish the qualifications of individuals in their service. In any case only one of the clerks mentioned was recruited since 1928 when appointments for the Contracts Directorate were made independent of the Public Service Commission.

(d), (e) and (f). The answer is in the affirmative, but it was a feature of the arrangements sanctioned in 1928 that the clerical establishments of the Contracts Directorate should be exempted from passing the Public Service Commission promotion tests.

(g) There may have been a few such cases.

(h) Government see no reason to reverse their present policy in this matter.

(i) and (j). Government consider that the Director is the best judge of the type of recruits required for his office.

(k) No, Sir. Recruitment by competitive examination is not suited to the requirements of all services.

Mr. Lalchand Navalrai: May I know whether it is not the policy of the Government to get men who have passed the Public Service Commission examination? Is it not a fact that all men should pass the Public Service Commission Examination? Has that rule been relaxed?

Mr. G. R. F. Tottenham: Yes. The rule in this particular department, I mean the Contracts Directorate, is that recruitment should be made independently of the Public Service Commission. This is the only department of the Army Headquarters in which such a rule is in force.

Mr. Lalchand Navalrai: What are the reasons for it? Why has an exception been made in that department alone?

Mr. G. R. F. Tottenham: Because of the special nature of the work done in the Contracts Directorate. The work done in that Directorate is much the same as the work done in a business firm, which buys and

sells goods; and it is considered that men are required with special experience of, and aptitude for, business matters and procedure.

Mr. Lalchand Navalrai: Are those men recruited by Government or through contractors?

Mr. G. R. F. Tottenham: They are recruited by Government.

Mr. Lalchand Navalrai: If they are recruited by Government, why should there be a distinction made in the case of these men alone?

Mr. G. R. F. Tottenham: Because it is considered that it is not so easy to get men with the qualifications and aptitude required by means of a competitive examination as it is by actual selection and personal knowledge.

Mr. Lalchand Navalrai: That is to say, the Government make those people easier to get in or accept men with lesser qualifications.

Mr. G. R. F. Tottenham: They accept men with the necessary qualifications.

Mr. Lalchand Navalrai: And not such men who pass the Public Service Commission test?

STOPPAGE OF INTERVIEWS WITH MAHATMA GANDHI IN JAIL.

1129. **Mr. Lalchand Navalrai:** (a) Will Government be pleased to make a full statement as to why interviews with Mahatma Gandhi were stopped immediately after the altered provisions of the Communal Award were accepted by His Majesty's Government?

(b) What reasons had Government to discontinue visits even to certain leaders who had actually moved in that direction with Mahatma Gandhi?

The Honourable Mr. H. G. Haig: I invite the Honourable Member's attention to the reply I gave on the 7th November, 1932, to a question on the subject by Mr. B. Das.

Mr. Lalchand Navalrai: Will the Honourable Member be pleased to say whether it is not a fact that since then Mahatma Gandhi has been allowed to have interviews with regard to the question of the Depressed Class people?

The Honourable Mr. H. G. Haig: Since when?

Mr. Lalchand Navalrai: Since the answer was given.

The Honourable Mr. H. G. Haig: No, Sir; the answer was given in explanation of the facilities that were being allowed to Mr. Gandhi.

Mr. M. Maswood Ahmad: Are Government prepared to allow interviews with Mr. Gandhi and to extend those facilities to him to help him to take part and bring about the Hindu-Muslim settlement if an assurance is given that such conversations would be restricted to that particular issue only?

The Honourable Mr. H. G. Haig: I explained, Sir, on the previous occasion that Government were only prepared to give certain exceptional facilities to Mr. Gandhi, namely, to deal with the question of the removal of untouchability, and that they were not prepared to extend those facilities for taking part in discussions in connection with Hindu-Muslim questions.

Mr. M. Maswood Ahmad: Even if the assurance is given that the discussions will be restricted to that one issue only?

The Honourable Mr. H. G. Haig: The Honourable Member is looking at the matter in a different perspective from that of mine. Mr. Gandhi is detained in jail on account of civil disobedience which is still his avowed programme. A prisoner must necessarily suffer from disabilities and cannot expect to take part in the ordinary public life of the country. That, I think, provides a sufficient answer for what I have said just now that Mr. Gandhi cannot be allowed to take part in these Hindu-Muslim conversations as long as he is a State Prisoner.

Mr. Gaya Prasad Singh: Is there any connection between the settlement of the Hindu-Muslim question and the civil disobedience movement?

The Honourable Mr. H. G. Haig: No, Sir; there are certain disabilities which attach to Mr. Gandhi as a State Prisoner.

Mr. Gaya Prasad Singh: Then why were they removed when the Depressed Classes question was under discussion?

The Honourable Mr. H. G. Haig: I went into that question very fully last time. I said that this question of the removal of untouchability had nothing whatever to do with politics—a point which has been very much emphasised by Mr. Gandhi himself; and to use his own words, it is a moral and a religious reform.

Mr. Gaya Prasad Singh: So far as the settlement of Hindu-Muslim question is alleged to be a political question, do I take it that it is against the Government Servants' Conduct Rules for any official of the Government to encourage such settlement?

The Honourable Mr. H. G. Haig: I cannot understand the relevance of my Honourable friend's question.

Mr. Gaya Prasad Singh: It is for the Honourable the President to decide whether my question has any relevance or not, and it is not for the Honourable Member. . . .

The Honourable Mr. H. G. Haig: I thought I was giving an opportunity to the Honourable Member of explaining the relevance. I was quite sure that he would be able to give some explanation of what appeared to me I think to be an irrelevant question.

Mr. Gaya Prasad Singh: The Honourable Member said on the last occasion that the settlement of the Hindu-Muslim question was a political question, but do not the Government Servants' Conduct Rules prohibit a

Government official from taking part in political questions? Do I take it, therefore, that for any official to encourage the settlement of the Hindu-Muslim question is tantamount to taking part in a political question, and to that extent it is forbidden under the Government Servants' Conduct Rules?

The Honourable Mr. H. G. Haig: I think the Honourable Member applies a somewhat restricted meaning to the rules in the Government Servants' Conduct Rules. Government servants under present conditions have in fact to deal with a great many political questions as is shown by the presence of a number of Government servants in this House.

Mr. Lalchand Navalrai: Will the Honourable Member be pleased to say whether, if the Unity Conference arrives at an agreement, Mr. Gandhi will be permitted to take part and intervene in the settlement of the Hindu-Muslim question?

The Honourable Mr. H. G. Haig: I think, Sir, the mere fact that, as is reported in this morning's telegrams, an agreement has been reached (which, I am sure, will be a peculiar satisfaction to the Honourable Member himself, in that the question of the separation of Sind has been settled) shows there is no necessity for Mr. Gandhi to intervene in this question.

Mr. Lalchand Navalrai: Am I to understand, then, that even if the Hindus and Muslims come to an agreement, Mahatma Gandhi will not be allowed to take part in these discussions?

The Honourable Mr. H. G. Haig: I would remind the Honourable Member that Mr. Gandhi is a State Prisoner and must be treated as such.

STOPPAGE OF INTERVIEWS WITH MAHATMA GANDHI IN JAIL.

1190. ***Mr. Lalchand Navalrai:** (a) Has Government's attention been drawn to a cable published in the press sent by Sir Tej Bahadur Sapru to his London friends stating that he and his friends talked with Mahatma Gandhi in the Yeravda Prison on the general situation and believed that further exchange of ideas would have led to the restoration of conditions conducive to joint work; that after his return to Allahabad Mr. Jayakar and Mr. Kunzru saw the Mahatma and that they made a distinct advance towards bringing about peace in the country and that he regretted that further opportunities of carrying on conversations with Mahatma Gandhi should have been abruptly denied to men of standing and record who had gathered at Poona?

(b) Have Government any doubt about such a statement? If not, how do they justify their action?

(c) Do Government propose to take steps to facilitate unrestricted interviews to such men with Mahatma Gandhi for the aforesaid object? If so, what steps do Government propose to take? If not, why not?

The Honourable Mr. H. G. Haig: (a) I have seen a press report of the cable referred to by the Honourable Member.

(b) and (c). I invite the Honourable Member's attention to the reply I have just given to question No. 1129.

APPOINTMENT OF A MUSLIM NON-MATRIC IN THE KARACHI CUSTOMS.

1181. *Mr. Lalchand Navalrai: (a) Has Government's attention been drawn to a letter by "a Muslim Graduate" published in the *Sind Observer*, dated the 23rd June, 1982, under the caption "Karachi Customs—men of influence alone get jobs"?

(b) Is it a fact as stated therein that a post of a preventive officer carrying a salary of about Rs. 200 has been given to a Muhammadan ex-student of the matriculation class only in preference to Muslim graduates?

(c) If the answer be in the affirmative, will Government be pleased to state why such a glaring inequity was perpetrated?

(d) Is it a fact that the person who got the job had got influence exercised over the officers concerned and were any recommendations made for him?

(e) What do Government propose to do in the matter?

The Honourable Sir Alan Parsons: (a) A copy of the letter has been obtained and seen by me.

(b) Yes, but in an acting vacancy on Rs. 180 per month (less 10 per cent.).

(c) The possession of higher educational qualifications does not necessarily give a better title to appointment in the Customs Preventive Service: other considerations such as good physique, active habits, etc., are as essential as higher educational qualifications.

(d) No.

(e) Nothing.

Mr. K. Ahmed: Is it not a fact that the Collector of Customs, Calcutta, wrote a letter to a certain association, and the Secretary of that association, who is an M. L. A., received a letter from the predecessor of Mr. Hardy who was Collector at the time, that, unless these Muhammadans pass a certain test examination and their merits and qualifications are decided these questions cannot be decided, and may I ask whether this was not accepted by the then the Honourable the Finance Member? Did he not classify Muslim candidates after their test examination and recorded their names in the Waiting List according to their merit? Will the Honourable Member revise his answer?

The Honourable Sir Alan Parsons: I am afraid I must ask the Honourable Member for notice. I am dealing here with an appointment in the Karachi Customs Office, and I do not think I have seen the letter to which he refers.

Mr. K. Ahmed: It is a distance of 8,000 miles no doubt, but how can the principle be different?

Mr. Lalchand Navalrai: Will Government be pleased to state whether there is any difference recognised by the Government in qualifications for temporary and permanent appointments?

The Honourable Sir Alan Parsons: Again, I should have to ask for notice. I do not remember the exact terms on which recruits are taken for temporary or permanent service as preventive officers.

Mr. Lalchand Navalrai: May I then ask why a matriculate was preferred to a graduate even for this temporary post, and what were the qualifications of the matriculate to supersede others?

The Honourable Sir Alan Parsons: For reasons which I gave in answer to part (c) of the Honourable Member's question, educational qualifications are by no means the only qualifications required, but I am sure the Collector of Customs considered that this candidate was the best qualified candidate from all points of view.

Mr. Lalchand Navalrai: May I know what other qualifications influenced the Customs Officer in making this appointment?

The Honourable Sir Alan Parsons: I presume, from the information which I have received in answer to the question of my Honourable friend, that this particular gentleman had a good physique and was of active habits.

Sir Muhammad Yakub: To what community does he belong?

The Honourable Sir Alan Parsons: Muslim.

FILLING UP OF APPOINTMENTS BY COMPETITIVE EXAMINATION.

1182. *Mr. Lalchand Navalrai: (a) Has Government's attention been drawn to the last portion of the letter referred to in the preceding question making a demand that appointments among Muhammadans should now go by competitive examinations conducted by the Public Service Commission?

(b) Will Government be pleased to state if, in view of the competition that now occurs even amongst Muhammadans, they are prepared to fill up appointments by competitive examinations without any invidious communal distinctions?

(c) If not, will Government make a full statement with reasons for not doing so?

The Honourable Mr. H. G. Haig: (a) I have seen the letter.

(b) and (c). The argument in the letter is that posts reserved for Muslims should be filled by competitive examination among themselves. This is quite different from the Honourable Member's suggestion that all appointments should be made by competitive examination without any reservation for minority communities. Such a procedure would be contrary to established Government policy and there is no intention of adopting it.

CONSTITUTION OF THE BRITISH MEDICAL COUNCIL IN ENGLAND.

1183. *Mr. Lalchand Navalrai: (a) Will Government be pleased to give information as to how the British Medical Council in England is constituted and who possess its franchise?

(b) Is it composed of elected members or of both elected and nominated? If of both, in what proportion?

(c) Has it a nominated or elected President?

(d) Does each medical faculty elect members or the Senate, and how many?

(e) Have the medical graduates and licentiates respectively a direct representation on the Council? If so, to what extent?

(f) Is there an executive committee to the British Medical Council, and how is it formed?

(g) What are the functions of the said executive committee?

Mr. G. S. Bajpai: (a) and (b). The Council consists of 18 members appointed by the Universities in the United Kingdom having Medical Faculties; nine members appointed by medical corporations such as the Royal College of Physicians and Surgeons, five members appointed by His Majesty in Council and six members directly elected by members of the profession as a whole. To these are added three dentists who are members of the Dental Board and are appointed for dental business.

(c) It has an elected President.

(d) Generally it is not the Medical Faculty of the University but the Academic Governing Body that appoints the member.

(e) Medical graduates and licentiates have no separate representation. The representatives are practitioners elected, four from England, one from Scotland and one from Ireland, by ballot of all the members of the profession having registered addresses in these countries, respectively.

(f) There is an Executive Committee which is appointed by the General Council. The number of members is not fixed in the constitution; only it is provided that the quorum shall not be less than three.

(g) The General Council may delegate any of its powers and duties to the Executive Committee except the power of making representations to His Majesty in Council.

MEDICAL LICENTIATES OTHER THAN GRADUATES IN ENGLAND.

1134. ***Mr. Lalchand Navalrai:** (a) Is there a class of medical licentiates other than graduates in England?

(b) Are the medical licentiates on the register of the British Medical Council?

(c) Is there any difference in the recognition of the graduates and licentiates? If so, what?

Mr. G. S. Bajpai: (a) Yes, but there is one uniform minimum standard of instruction and examination which applies equally to licentiates and graduates.

(b) Yes.

(c) There is no difference in the recognition of graduates and licentiates.

Mr. Lalchand Navalrai: What kind of examination is that which is general for the licentiates and graduates?

Mr. G. S. Bajpai: I am afraid I could not give particulars of the syllabus of examination for licentiates.

PURCHASE BY A MEMBER OF THE RAILWAY BOARD OF A LANDED PROPERTY IN BARARA ON THE NORTH WESTERN RAILWAY.

1135. ***Khan Bahadur Haji Wajihuddin:** (a) Will Government be pleased to enquire and state how far it is true that the Railway Board Member responsible for the invention of the Hayman-Mohindra punches has purchased a big landed property in Barara on the North Western Railway in his own name or in the name of his relative?

(b) Is it true that on occasions mistries and other workmen of the Engineering Department, North Western Railway, Delhi Division, are utilised in the said estate?

The Honourable Sir Joseph Bhore: (a) Government understand that one of Mr. Hayman's sons has a property valued at rupees eight thousand at Barara.

(b) No.

PURCHASE OF BAGS FOR HAYMAN-MOHINDRA PUNCHING MACHINES.

1136. ***Khan Bahadur Haji Wajihuddin:** (a) Will Government be pleased to state with reference to their reply to a question in the last Session of the Legislative Assembly that Hayman-Mohindra punches can be conveniently put in pockets? If so, why bags have been supplied for the purpose?

(b) What is the cost of each bag and the total cost of all such bags?

(c) Why has this extra expenditure been incurred during this period of financial depression?

(d) Have ticket checkers on the old East Indian Railway and Oudh and Rohilkhand Railway or on any other State Railway also been supplied with such bags?

Mr. P. B. Rau: The information asked for by the Honourable Member is being obtained and will, when received, be laid on the table.

SHARES HELD BY SOME OFFICERS OF THE EAST INDIAN RAILWAY IN THE CARLSBAD MINERAL WATER MANUFACTURING COMPANY.

1137. ***Khan Bahadur Haji Wajihuddin:** Will Government be pleased to inquire and state whether some of the officers of the East Indian Railway hold shares in the Carlsbad Mineral Water Manufacturing Company which caters for ice and aerated water on the said Railway?

Mr. P. B. Rau: Enquiries made from the East Indian Railway administration show that so far as that administration is aware no officer of the East Indian Railway holds shares in the Carlsbad Mineral Water Manufacturing Company.

Mr. Gaya Prasad Singh: Are Government aware that some months back an order had been issued by the authorities of the East Indian Railway asking the refreshment room keepers on that railway to purchase their supplies of aerated waters exclusively from this Carlsbad Mineral Water Company although their charges were higher than those of other companies.

Mr. P. B. Rau: No. I have no information on the matter. If my Honourable friend gives notice of the question, I can get the information.

Dr. Ziauddin Ahmad: Is it not a fact that a certain individual wanted to open a factory at some other towns, but permission was refused?

Mr. P. B. Rau: No. I have no information on that matter either.

Mr. H. A. F. Metcalfe: No such case has come to the notice of Government.

INOCULATION OF INDIAN PILGRIMS TO MECCA.

1142. *Dr. Ziauddin Ahmad: Do Government propose to arrange for the inoculation of Indian pilgrims to Mecca at the headquarters of the district in which the pilgrims reside, at least a fortnight before their departure and to see that this fact may be entered in the passport by the District Magistrate?

Mr. G. S. Bajpai: As a result of a recommendation made by the Haj Enquiry Committee, provision for the compulsory immunisation of pilgrims has been made in clause 10 of the Bill further to amend the Indian Merchant Shipping Act, 1923, which was introduced in the Legislative Assembly in March this year. As explained in the "Notes on Clauses" of that Bill it is intended that arrangements should be made for carrying out the immunisation of pilgrims and for providing them with proper certificates in their own districts as far as possible.

Dr. Ziauddin Ahmad: May I understand that this inoculation will be made as far as possible in the districts in which the pilgrims reside?

Mr. G. S. Bajpai: As far as possible arrangements will be made for immunisation in the districts.

CIRCULATION OF THE PROCEEDINGS OF CERTAIN RAILWAY CONFERENCES.

1143. *Dr. Ziauddin Ahmad: Do Government intend to circulate among the Members of the Assembly the proceedings of the Agents, the Commercial Managers and the Operating Staff Conferences convened by the Railway Board?

Mr. P. R. Rau: No. Some of these documents are confidential, and all have a purely departmental interest and are not meant for publication.

Mr. S. G. Jog: Has the attention of the Government been drawn to a long letter which appeared in the *Statesman* in which my Honourable friend, Dr. Ziauddin Ahmad, has made very useful suggestions to the Railway Administration.

Mr. P. R. Rau: Where was that letter published, may I know?

Dr. Ziauddin Ahmad: Information which may be of a general nature and not of a technical nature may usefully be supplied to the Members of the Assembly. It will enlighten us enormously as to how the Railway administration is being carried on?

Mr. P. R. Rau: I should like to know what exactly my Honourable friend is referring to. What sort of information does he want to be circulated to Honourable Members?

Dr. Ziauddin Ahmad: For example, the Railway Board convened several meetings of the Agents and the Commercial Managers, etc. If a summary of those discussions could be prepared and circulated among Members of the Assembly, I thought it would be very useful.

Mr. P. R. Rau: These discussions with the Agents are confidential in their nature and, obviously, unless they are kept confidential, it would be impossible to have a full and free discussion of the subjects which the Agents discuss with the Railway Board.

Dr. Ziauddin Ahmad: Most of these discussions are published in the papers. They are scattered. For example, the address of the President of the Railway Conference, the Agent of the Bengal Nagpur Railway. It is not confidential.

Mr. P. R. Rau: Those are the meetings of the Indian Railway Conference Association and the important speeches of general interest are published. I do not know what more my Honourable friend wants.

Dr. Ziauddin Ahmad: These are not published in the papers in full. If these things are collected and supplied to the Members, I thought it would be useful.

Mr. P. R. Rau: If my Honourable friend wants a copy of Mr. Jarrad's speech, I can send it to him.

Mr. President: Next question, please.

DETAILED EXPENDITURE OF THE RAILWAY BUDGET.

1144. *Dr. Ziauddin Ahmad: Will Government be pleased to lay in the Library for at least one week a copy of the detailed expenditure of the Railway Budget, giving the details of every item of the demand in the Budget?

The Honourable Sir Joseph Bhoré: I presume my Honourable friend intends to suggest that the Budget documents should be in the hands of Honourable Members at least a week before the general discussion. While Government will endeavour to expedite the presentation of the Budget as far as possible to enable Honourable Members to examine the Railway Budget in detail before discussion, owing to the exigencies of time involved by the necessity for having the complete discussion on the Railway Budget finished by the 27th February, it may not be possible to allow as long an interval as is suggested by my Honourable friend.

Dr. Ziauddin Ahmad: Will it be convenient to place it after the Budget debate, because the point of view which I have in my mind is that certain posts, which are promised to be retrenched, are not really retrenched but they are provided for under some other heading, and the expenditure under one item is distributed under various demands that it is very difficult for us to follow it.

The Honourable Sir Joseph Bhoré: I will consider the suggestion and endeavour to meet my Honourable friend if we possibly can.

EXPENDITURE ON RAILWAY WORKSHOPS.

1145. *Dr. Ziauddin Ahmad: Will Government be pleased to mention the expenditure in each year on Railway workshops, since Craven's report?

Mr. P. R. Rau: I presume my Honourable friend is referring to the report of the Railway Workshops Committee presided over by Sir Vincent Raven. The information is being collected from Railway Administrations and will be laid on the table in due course.

CERTAIN POSTS IN THE GOVERNMENT OF INDIA SECRETARIAT HELD BY MUSLIMS.

1146. ***Mr. Muhammad Muazzam Sahib Bahadur:** Is it a fact that the following posts in the Government of India Secretariat held by Muslims have been either retrenched or filled by non-Muslims?

- (i) Under Secretary, Education, Health and Lands Department,
- (ii) Assistant Secretary, Finance Department,
- (iii) Attaché, Foreign and Political Department,
- (iv) Secretary, Imperial Council of Agricultural Research.

The Honourable Mr. H. G. Haig: Post No. (i), which was held by a Muslim, has been left unfilled owing to the existing financial stringency, but in lieu of this the post of Deputy Secretary held previously by a non-Muslim is now held by a Muslim. In post No. (ii) a Muslim Superintendent was officiating, but reverted from the post in May last when it was abolished, as stated in reply to Mr. Maswood Ahmad's question No. 161 on September 30th. Post No. (iii), which was also held by a Muslim, has been abolished. The pay and status of post No. (iv) have been reduced to those of an Assistant Secretary to the Government of India, and it is now held by a non-Muslim.

NUMBER OF GAZETTED POSTS IN THE GOVERNMENT OF INDIA SECRETARIAT HELD BY MUSLIMS.

1147. ***Mr. Muhammad Muazzam Sahib Bahadur:** (a) What was the total number of gazetted posts in the Government of India Secretariat held by Muslims getting a pay of Rs. 900 per month or over before retrenchment, and what is it now?

(b) Do Government realise that the number of Muslims holding posts of the nature referred to in part (a) has decreased? What steps have Government taken or propose to take to make up the deficiency?

The Honourable Mr. H. G. Haig: (a) Prior to retrenchment there were eight Muslims holding gazetted posts in the Government of India Secretariat on a pay of Rs. 900 p.m. or over and the same number are still holding such posts.

(b) There has been no decrease. The second part does not, therefore, arise.

CERTAIN HIGHER POSTS IN THE GOVERNMENT OF INDIA SECRETARIAT.

1148. ***Mr. Muhammad Muazzam Sahib Bahadur:** (a) Will Government be pleased to state the total number of posts of Assistant Secretaries to the Government of India, and the posts of equal rank and status in the Government of India Secretariat and Attached Offices and the names of the persons holding them?

(b) Is it a fact that there is not a single Muslim holding such a post?

(c) Are Government prepared to consider the advisability of filling these posts by Muslims in proper number?

The Honourable Mr. H. G. Haig: (a) and (b). I would refer the Honourable Member to the Government of India Directory which contains the information he wants, a copy of which will be found in the Library.

(c) As these are selection posts, they must be filled on the basis of merit and not on communal considerations.

CASHIERS IN THE GOVERNMENT OF INDIA SECRETARIAT.

1149. ***Mr. Muhammad Muazzam Sahib Bahadur:** (a) What is the total number of cashiers in the various Departments of the Government of India Secretariat, and what are their names?

(b) Is it a fact that the post of a cashier in a Secretariat Department carries a special pay of Rs. 50 per month?

(c) Is it a fact that there is not a single Muslim in the whole Secretariat holding this post?

(d) If the reply to part (c) be in the affirmative, are Government prepared to consider the advisability of appointing suitable Muslims to these posts?

(e) Is it a fact that the post of a cashier is ordinarily filled by promotion of clerks next to cashiers working in Cash Sections?

(f) Will Government please state the names of such clerks working at present in Cash Sections of the various Departments? How many of them are Muslims, and what are their names?

The Honourable Mr. H. G. Haig: (a) Fourteen. I do not think any useful purpose would be served by detailing their names.

(b) and (c). Yes.

(d), (e) and (f). I would invite attention to the reply given by my predecessor to starred question No. 1094 on the 23rd March, 1931, in this House, and would add that appointments to these posts are made not on communal considerations, but on seniority and merit combined with aptitude for the class of work required of the Cashier. In the circumstances, I do not think the collection of the information asked for in (f) would be of value.

VACANCIES IN CERTAIN OFFICES OF THE GOVERNMENT OF INDIA.

1150. ***Mr. Muhammad Muazzam Sahib Bahadur:** Will Government please state the number of vacancies—permanent, temporary or officiating—which have occurred since 1st April, 1932, in the offices of the Central Board of Revenue, the Imperial Council of Agricultural Research, and the office of the Reforms Commissioner, and the proportion in which they have been filled from the various communities?

The Honourable Mr. H. G. Haig: A statement containing the information asked for is laid on the table.

Statement.

Office.	Vacancies.	Hindus.	Muslims.	Sikhs.	Indian Christians.	Others.
Central Board of Revenue.	17	9	6	..	2	..
Reforms Office	6	4*	1	..	2*	..
Imperial Council of Agricultural Research	16†	5	6	1	..	1 (Parsee).

* One in each case filled the same vacancy, the Indian Christian for a short time and the Hindu thereafter.

† Three were not filled.

TOTAL STAFF IN CERTAIN OFFICES OF THE GOVERNMENT OF INDIA.

1151. *Mr. Muhammad Muazzam Sahib Bahadur: Will Government please state:

- the total number of men employed in various grades in the staff of the office of the Director of Civil Aviation, Director General, Posts and Telegraphs, and the Director General of Commercial Intelligence and Statistics;
- the number and percentage of Muslims in each grade; and
- the number of vacancies—permanent, temporary, or officiating—which have occurred in the above offices since 1st April, 1982, and the proportion in which they have been filled from the various communities?

The Honourable Sir Frank Noyce: The attention of the Honourable Member is invited to the statements showing the communal strength of the clerical staff of these offices which are prepared annually and are in the Library of the House. Government are unable to give more detailed information regarding the communal composition of the offices in question than is contained in these statements.

NUMBER OF MEN EMPLOYED IN EACH OF THE SUBORDINATE OFFICES UNDER THE CIVIL AVIATION DIRECTORATE.

1152. *Mr. Muhammad Muazzam Sahib Bahadur: (a) What is the total number of men employed in (i) the technical staff and (ii) the clerical establishment in each of the subordinate offices under the Civil Aviation Directorate? How many are Muslims?

(b) What steps have Government taken or propose to take to ensure proper representation of Muslims in the staff referred to at part (a)?

The Honourable Sir Frank Noyce: (a) There are six technical officers and five clerks in the subordinate offices in the Civil Aviation Directorate; none is a Muslim.

(b) The general orders of Government regarding representation of minority communities are observed in this Directorate as far as possible. Of the six technical officers referred to, two are Europeans and four are Indians, Hindus. The former have been appointed to the posts of Aircraft Inspector and Assistant Aircraft Inspector for which no suitably qualified Indians are at present available. The four Indians have been appointed as Aerodrome Officers. They were selected from the Government of India Civil Aviation Scholars who received their training in England. Out of the ten scholarships granted in this connection, two were offered to two Muslims who had been selected by the Public Service Commission from among a number of candidates. One of the Muslim candidates was unable owing to private reasons, to avail himself of the offer. The other accepted the offer. He was one of a batch of four scholars who completed their training in 1981-82. Only one post of Aerodrome Officer was then available, three such posts sanctioned previously having been filled by scholars from an earlier batch. For that post the scholar who was considered to be the most suitable was chosen; he happened to be a Hindu.

With regard to the clerical staff, this is recruited through the medium of newspaper advertisements, preference being given to local men. The staff in any local office usually consists of one clerk only. Up to December, 1981, the staff included one Muslim. The post he held was then retrenched as a measure of economy and his services had to be dispensed with. An addition to the number of clerical posts is likely to be made shortly when steps will be taken to secure the services of a Muslim, if possible.

SUBORDINATE OFFICES UNDER THE IMPERIAL COUNCIL OF AGRICULTURAL RESEARCH.

1153. *Mr. Muhammad Muazzam Sahib Bahadur: (a) How many subordinate offices are there under the Imperial Council of Agricultural Research? At what stations are they located?

(b) What is the total number of men employed in (i) the technical staff, and (ii) the clerical establishment in each of the offices referred to at part (a)? How many are Muslims, and what are their names?

Mr. G. S. Bajpai: (a) and (b). I place on the table a statement containing the information asked for by the Honourable Member.

Statement relating to the number, location and personnel of the offices subordinate to the Imperial Council of Agricultural Research.

Name of office.	Where located.	Technical appointments.		Clerical appointments.	
		Total No.	No. and names of Muslims.	Total No.	No. and names of Muslims.
1. Office of the Locust Research Entomologist.	Lyallpur	4	2 Mr. M. Afzal Husain, M.Sc., I.A.S. Mr. Taskhir Ahmad.	4	1 Mr. Tajud-Din.
2. Office of the Deputy Locust Research Entomologist.	Quetta	6	1 Mr. Mirza Ahmad Ali.	2	2 Mr. A. Ghani. Mr. M. Ramzan.
3. Office of the Sugar Technologist.	Cawnpore	2	Nil	10	1 Mr. Amir-ul-Hasan.

TITLES CONFERRED ON THE INDIAN STAFF OF THE GOVERNMENT OF INDIA AND ATTACHED OFFICES.

1154. *Mr. Muhammad Muazzam Sahib Bahadur: Will Government please lay on the table a statement, showing by communities, the names of the members of the staff of the Government of India and its attached offices on whom Indian titles have been conferred since 1922, and the posts held by them at the time of the conferment of the titles?

Mr. H. A. F. Metcalfe: A statement giving the required information is laid on the table.

Statement showing by communities the names of the members of the staff of the Government of India and Attached offices on whom Indian titles have been conferred since 1922 and the post held by them at the time of the conferment of the title.

Name of grantee.	Office or designation.	Title granted.	Date of award.	Community.	Remarks, if any.
<i>Home Department.</i>					
Pindi Lal	Photographer, Office of the Director of Public Information.	Rai Sahib	1st January 1923.	Hindu.	
Kotibeth Palliyal Anantan	Superintendent, Home Department.	Rao Sahib	2nd June 1923 .	Hindu.	
Aga Sikandar	Assistant, Home Department .	Khan Sahib	1st January 1924.	Muslim.	
Radha Biles Das	Assistant, Home Department .	Rai Sahib	3rd June 1924 .	Hindu.	
Shib Dial Seth	Clerk-in-Charge of Issue Branch, Home Department.	Rai Sahib	1st January 1926.	Hindu.	
S. Anantanarayana Sastry	Stenographer and Confidential clerk to Director, Intelligence Bureau.	Rao Sahib	1st January 1926.	Hindu.	
Bhai Bur Singh	Clerk, Home Department .	Sardar Sahib	1st March 1929 .	Sikh.	
Charles Jacob	Superintendent of the office of Director, Public Information.	Khen Sahib	1st January 1929.	Indian Christian.	
Tarapada Roy	Superintendent, Home Department.	Rai Sahib	3rd June 1929 .	Hindu.	
Bhagwant Rai	Stenographer, Home Department.	Rai Sahib	3rd June 1930 .	Hindu.	
Maulvi Mah Noman	Photographer to Government Examiner of Questioned Documents under D. I. B.	Khan Sahib	1st January 1931.	Muslim.	
<i>Home Department.</i>					
Vappal Pangunni Menon	Superintendent, Reforms Office.	Rao Sahib	1st January 1931.	Hindu.	
<i>Foreign and Political Department.</i>					
Khan Bahadur Muzaflar Khan.	Oriental Secretary to the British Mission to Kabul.	Nawab (personal).	2nd January 1922	Muslim	Services were obtained from the Punjab Government for Mission work.

Surja Kumar Roy Chowdry	Superintendent, Issue Branch .	Rai Sahib	2nd January 1922	Hindu	Since retired.
Narendra Nath Sircar	Toshakhana Assistant .	Rai Sahib	2nd January 1922	Hindu	Since retired.
Rai Sahib Ramji Das Dhamejah	Assistant, Foreign and Political Department and Superintendent, Office of the Chief Secretary to H. R. H. the Prince of Wales.	Rai Bahadur .	1st April 1922 .	Hindu	Now Superintendent.
Muhammad Ghiasuddin	Assistant .	Khan Sahib	1st January 1923.	Muslim	Since retired.
Mirza Abdulla Jan	Persian Munshi and Translator.	Khan Sahib	1st January 1925.	Muslim	Since retired.
Nogendra Nath Nundy	Superintendent, Issue Branch .	Rai Sahib	1st January 1926.	Hindu	Since retired.
Khan Sahib Muhammad Inamul Huk	Under Secretary	Khan Bahadur	1st January 1927.	Muslim	Since dead.
Rai Sahib Satish Chandra Biswas	Superintendent	Rai Bahadur .	4th June 1928 .	Hindu.	
Pandit Autar Krishna Kaul	Superintendent, Office of the Indian States' Committee.	Rai Sahib	3rd June 1929 .	Hindu	Now a Superintendent in the Department.
Sunder Singh Chhabra	Superintendent	Sardar Sahib	1st January 1931	Sikh.	Since retired.
Khan Sahib Muhammad Ghiasuddin	Attaché	Khan Bahadur.	1st January 1932	Muslim	
<i>Finance Department.</i>					
Mr. S. K. D. Bose	Shorthand writer to the Secretary to the Government of India, Finance Department.	Rai Sahib	2nd January 1922	Hindu	Is now serving as a Reporter in the Legislative Assembly Department.
Mr. D. S. Iyengar	Shorthand writer to the Secretary to the Government of India, Finance Department.	Rao Sahib	2nd June 1923 .	Hindu.	
Mr. A. K. Ghosh	Superintendent, Office of the Financial Adviser, Military Finance.	Rai Sahib	1st January 1924	Hindu	Since retired.
Syed Taj-ud-Din Ahmad	Personal Assistant to the Members, Central Board of Revenue.	Khan Bahadur.	3rd June 1924	Muhammadan.	Since died.
Rai Sahib C. N. Chakraborty	Superintendent, Finance Department.	Rai Bahadur .	1st January 1926.	Hindu	Since retired.
Rai Sahib K. C. Maulik	Assistant Financial Adviser, Military Finance.	Rai Bahadur .	3rd July 1926 .	Hindu	Since retired.
Pt. Ram Nath	Senior Personal Assistant to the Members, Central Board of Revenue.	Rai Bahadur .	3rd July 1926 .	Hindu	Is now Secretary to the Central Board of Revenue.

Name of grantee.	Office or designation.	Title granted.	Date of award.	Community.	Remarks, if any.
Finance Department— contd.					
Mr. Mahavej Krishna	Cashier, Finance Department	Rai Sahib	3rd July 1926	Hindu	Since retired.
Mr. P. N. Sen	Assistant-in-Charge, General and Issue Branch, Finance Department.	Rai Sahib	1st January 1927.	Hindu	
Rai Sahib Hari Shanker Kaisth.	Assistant Financial Adviser, Military Finance.	Rai Bahadur	3rd July 1927	Hindu	Since retired.
Mr. Sital Singh	Assistant Secretary, Finance Department.	Sardar Sahib	3rd July 1927	Sikh.	
Mr. Bhagwant Kishore	Superintendent, Finance Department.	Rai Sahib	1st January 1928.	Hindu.	
Mr. Jawind Lal	Personal Clerk to the Hon'ble the Finance Member.	Rai Sahib	3rd June 1928	Hindu	Since retired.
Sardar Sahib Sital Singh.	Offg. Under Secretary, Finance Department.	Sardar Bahadur	3rd June 1929	Sikh	Is at present Attached Officer in the Office of the Accountant General, Central Revenues, Delhi.
Mr. H. D. Bannerjee	Assistant Financial Adviser, Military Finance.	Rai Sahib	3rd June 1929	Hindu	Since retired.
Mr. Shah Muhammad	Superintendent, Finance Department.	Khan Sahib	1st January 1930.	Muhammadian	
Mr. Hakumat Rai	Superintendent, Office of the Financial Adviser, Military Finance.	Rai Sahib	1st January 1930.	Hindu	Is now Assistant Financial Adviser, Military Finance.
Army Department.					
Babu Budhi Singh Khatri (retired).	Cashier, Q. M. G.'s Branch, Army Headquarters.	Rai Sahib	2nd January 1922	Hindu (Gurkha).	
Rai Sahib Lala Mahanarain (retired).	Superintendent, Q. M. G.'s Branch, Army Headquarters.	Rai Bahadur	3rd June 1922	Hindu.	
Bhai Natha Singh	Cashier, A. G.'s Branch, Army Headquarters.	Sardar Sahib	1st January 1923.	Sikh.	
Rai Sahib Joges Chandra Das Gupta.	Superintendent, Army Department, Government of India.	Rai Bahadur	1st January 1926	Hindu.	

Rai Sahib Anant Prasad Dube.	Personal Assistant to the Secretary to the Government of India, Army Department.	Rai Bahadur	King's Birthday Honours, 1926.	Hindu.	
Lala Bal Mokand Kohli	Assistant, Q. M. G.'s Branch, Army Headquarters.	Rai Sahib	New Year's Honours, 1927.	Hindu.	
Babu Girdhari Lall	Assistant, Q. M. G.'s Branch, Army Headquarters.	Rai Sahib	King's Birthday Honours, 1927.	Hindu.	
Mr. Aspendiar Cooverji Jassawala.	Superintendent, Office of the Engineer-in-Chief, Army Headquarters.	Khan Sahib	King's Birthday Honours, 1928.	Parsee.	
Munshi Mohamed Hafiz	Assistant, Office of the Adjutant General in India, Army Headquarters.	Khan Sahib	King's Birthday Honours, 1928.	Muslim.	
Mr. Ram Chander Sunkar	Assistant, Office of the Adjutant General in India, Army Headquarters.	Rai Sahib	New Year's Honours, 1930.	Hindu.	
Lala Narain Das	Superintendent, Office of the Chief of the General Staff, Army Headquarters.	Rai Sahib	King's Birthday Honours, 1930.	Hindu.	
Khan Sahib Hafiz Abdul Hakim.	Household Superintendent to H. E. the Commander-in-Chief.	Khan Bahadur	New Year's Honours, 1931.	Muslim.	
Mr. Sateshwar Banerjee	Superintendent, Army Department Secretariat (retired).	Rai Sahib	New Year's Honours, 1932.	Hindu.	
Legislative Department.					
Mannatha Nath Basu	Librarian	Rai Sahib	1st January 1923	Hindu	Retired from service.
Tulsi Ram	Personal Assistant to the Hon'ble the Law Member.	Rai Sahib	1st January 1924	Hindu.	
M. N. Venkata Raman	Council Reporter	Rao Sahib	3rd June 1927	Hindu.	
Jagat Prasanna Ghose	Cashier	Rai Sahib	3rd June 1931	Hindu.	
Legislative Assembly Department.					
Rai Sahib Debpatti Dutt S. G. Hasnain	Assistant Secretary Superintendent	Rai Bahadur Khan Sahib	1st January 1931 1st January 1932	Hindu. Muslim.	
Commerce Department.					
Mr. L. C. Sen	Assistant Secretary	Rai Bahadur	1927	Indian Christian.	
Mr. R. Ramchandra	Personal Assistant to Secretary	Rao Sahib	1930	Hindu.	

Name of grantee.	Office or designation.	Title granted.	Date of award.	Community.	Remarks, if any.
<i>Commerce Department—</i> contd.					
Mr. Laddi Parshad.	Assistant Secretary	Rai Sahib	1931	Hindu	
Mr. H. C. Sen	Head Assistant, Indian Tariff Board.	Rai Sahib	1932	Hindu	Holds a permanent appointment in the Department of Commerce.
<i>Railway Department</i> (Railway Board).					
Mr. A. L. Misra	Superintendent	Rai Sahib	3rd June 1923	Indian Christian.	
K. S. Barkat Ali	Assistant Director of Finance	Khan Bahadur.	4th June 1928	Muslim.	
R. S. I. D. Puri	Cashier, Railway Board	Rai Bahadur	1st January 1923.	Hindu.	
R. S. B. D. Puri	Assistant Director of Finance	Rai Bahadur	3rd June 1926	Hindu.	
Mr. N. L. Chatterjee	Stenographer	Rai Sahib	1st January 1927	Hindu.	
Mr. Faqir Chand Malhan	Assistant Director	Rai Bahadur	1st January 1927.	Hindu.	
Mr. Sohan Lal Puri	Assistant	Rai Sahib	2nd January 1928	Hindu.	
Mr. Chamba Ram	Assistant	Rai Sahib	4th June 1928	Hindu.	
Mr. Kishori Lal	Offg. Superintendent	Rai Sahib	3rd June 1932	Hindu.	
<i>Department of Education, Health and Lands.</i>					
Charan Das	Assistant	Rai Sahib	2nd June 1923	Hindu	Now employed as Secretary of the I. C. of A. R.
L. M. Roy	Superintendent	Rai Sahib	1st January 1924.	Hindu.	
Tulsi Ram	P. A. to H. M.	Rai Sahib	1st January 1924.	Hindu.	
D. Nadirshaw	P. A. to H. M.	Khan Bahadur.	1st January 1925.	Parsae.	
Ganga Ram	Assistant	Rai Sahib	1st January 1926.	Hindu.	
Dina Nath	Cashier	Rai Sahib	1st January 1927.	Hindu.	
J. N. Roy	P. A. to Secretary	Rai Sahib	3rd June 1927	Hindu.	
Tej Bhan Bahl	Assistant	Rai Sahib	1st March 1929	Hindu.	
A. F. M. Abdul Ali, M.A.	Keeper of the Records and as-offg. Assistant Secretary to the Government of India in the Department of Education, Health and Lands.	Khan Bahadur.	1st January 1930.	Muslim.	

<i>Office of the Director General, Indian Medical Service.</i>	Assistant	Rai Sahib	2nd January 1922	Hindu	Retired from service in 1924.
<i>Office of the Director General of Archaeology in India.</i>					
Maulvi Zafar Hasan	Offg. Superintendent, Archaeological Survey, Northern Circle, Agra.	Khan Sahib	3rd June 1924	Muslim	Now Deputy Director General of Archaeology.
Maulvi Zafar Hasan	Superintendent, Archaeological Survey, Northern Circle, Agra.	Khan Bahadur.	2nd January 1928	Muslim	Now Deputy Director General of Archaeology.
Mr. B. C. Ghosh	Office Superintendent	Rai Sahib	4th June 1928	Hindu.	
Mr. R. D. Siddiqi	Excavation Assistant	Khan Sahib	1st March 1929	Muslim.	
<i>Imperial Council of Agricultural Research.</i>					
Nil.					
<i>Department of Industries and Labour.</i>					
Bakshi Harbans Lal Chibber.	Superintendent	Rai Bahadur	1st January 1922.	Hindu	Retired.
Atanu Mohan Banerjee.	Superintendent.	Rai Sahib	2nd June 1923	Hindu.	Retired.
Nihal Chand	Superintendent	Rai Sahib	1st January 1924.	Hindu.	
Feroz Din	Assistant	Khan Sahib	1st January 1924.	Muslim.	
Gauri Shankar	Superintendent	Rai Sahib	1st January 1925.	Hindu.	
Pip Chand	Superintendent	Rai Sahib	3rd June 1925	Hindu.	
Bhagnal	Assistant	Rai Sahib	3rd June 1926	Hindu	Mr. Bhagnal was holding the post of Superintendent in the Simla Imperial Circle at the time of conferment of the title.
c Santosh Kumar Banerjee	Superintendent	Rai Bahadur	2nd January 1928	Hindu	Now Assistant Secretary.
20 Mohammed Aslam	Assistant	Khan Sahib	3rd June 1932	Muslim.	

Name of grantee.	Office or designation.	Title granted.	Date of award.	Community.	Remarks, if any.
Office of the Director General of Posts and Telegraphs. P. N. Mukerji	Superintendent of Post Offices employed as Officer on Special Duty in the Office of the Director General of Posts and Telegraphs.	Rai Bahadur	1926	Hindu	Now officiating as Deputy Director General, Postal Services.
L. P. Kulkarni	Assistant Director General	Rao Sahib	1923	Hindu	Now officiating as Postmaster General, Bihar and Orissa Circle.
L. P. Kulkarni	Assistant Director General	Rao Bahadur	1930	Hindu	Retired.
C. L. Dutt	Head Assistant	Rai Sahib	1923	Hindu	Retired.
C. L. Dutt	Superintendent, Budget Branch	Rai Bahadur	1927	Hindu	Retired.
A. C. Ghosh	Superintendent	Rai Sahib	1925	Hindu	Retired.
S. Dutt	Personal Clerk to Director General.	Rai Sahib	1928	Hindu	Retired.
T. R. R. Iyengar	Superintendent, Telegraph Traffic.	Rao Sahib	1930	Hindu	Employed at present as Assistant Deputy Director General.
K. R. Bakhle	Superintendent of Railway Mail Service.	Rao Sahib	1929	Hindu	Employed at present as Assistant Deputy Director General.
Indian Stores Department. Kirpe Ram	Chief Superintendent	Rai Sahib	June 1928	Hindu	Present designation, Assistant Director of Administration and Intelligence.
D. Sadasivam	Assistant Director of Purchase (Textiles).	Rao Sahib	January 1932	Hindu	Present designation, officiating Deputy Director of Purchase (Textiles).
V. Subramanyam	Personal Assistant to the Controller of Inspection, Calcutta Circle, Indian Stores Department.	Rao Sahib	June 1932	Hindu	Holds a lien on his permanent appointment of Superintendent in the Indian Stores Department.

TITLES CONFERRED ON THE INDIAN STAFF OF THE DEPARTMENT OF EDUCATION, HEALTH AND LANDS.

1155. *Mr. Muhammad Muazzam Sahib Bahadur: What are the names of the members of the staff of the Education, Health and Lands Department on whom Indian titles have been conferred since 1922, and the posts held by them at the time of the conferment of the titles? How many of them are Muslims, and what are their names?

Mr. H. A. F. Metcalfe: A statement giving the required information is laid on the table.

List of men belonging to the Department of Education, Health and Lands on whom Indian Titles have been conferred since 1922.

Name.	Title conferred.	Year in which the title was conferred.	Post held at the time of the conferment of the title.
1. Charan Das	Rai Sahib	1923	Assistant (now employed as Secretary of the Imperial Council of Agricultural Research).
2. L. M. Roy	Do.	1924	Superintendent.
3. Tulsi Ram	Do.	1924	P. A. to Hon'ble Member (transferred to the Legislative Department).
4. D. Nadirshaw	Khan Bahadur	1925	P. A. to Hon'ble Member.
5. Ganga Ram	Rai Sahib	1926	Assistant (since retired).
6. Dina Nath	Do.	1927	Cashier.
7. J. N. Roy	Do.	1927	P. A. to Secretary.
8. Tej Bhan Bahl	Do.	1929	Assistant (since transferred to the Imperial Council of Agricultural Research).
9. A. F. M. Abdul Ali, M.A.	Khan Bahadur	1930	Keeper of the Records and <i>Ex-officio</i> Assistant Secretary to the Government of India in the E., H. & L. Department.

PREFERENTIAL TREATMENT IN AWARDING TITLES TO THE CASHIERS OF THE GOVERNMENT OF INDIA.

1156. *Mr. Muhammad Muazzam Sahib Bahadur: Is it a fact that, as a matter of practice, the cashiers of the Departments of the Government of India are almost invariably recipients of a title?

Mr. H. A. F. Metcalfe: No, Sir.

CONTRIBUTION BY INDIAN STATES TOWARDS THE PAY OF THE INDIAN TRADE COMMISSIONER, HAMBURG.

1157. *Mr. M. Maswood Ahmad: (a) Is it a fact that one of the principal duties of the Indian Trade Commissioner, Hamburg, is to furnish commercial information directed to the development of Indian exports trade required by Indian States?

(b) Do the Indian States contribute towards his pay or emoluments?

(c) If not, do Government propose to examine the question whether the Indian States should contribute to his pay?

The Honourable Sir Joseph Bhore: (a) Yes, but it constitutes a comparatively unimportant fraction of the work performed by him.

(b) and (c). No.

PROTECTION TO BENGAL FLOUR MILLS.

1158. ***Mr. M. Maswood Ahmad:** Is it a fact that protection has been given to the Bengal flour mills to compete with the mills in Upper India by enhancing the railway freight on wheat flour over the East Indian Railway?

Mr. P. R. Rau: The railway freight on wheat flour was enhanced over the East Indian Railway on representations submitted to that Administration by flour mills situated on the East Indian Railway System, who were adversely affected by the stoppage of imports of cheap Australian wheat. The serious decline in railway earnings, in the opinion of that Administration, justified the enhancement in the freight rates and, incidentally, a reversion to the position prior to 1920 when the freight rates on the East Indian Railway for flour were higher than those for wheat.

GOVERNMENT ADVERTISEMENTS FOR PUBLICATION IN NEWSPAPERS.

1159. ***Mr. M. Maswood Ahmad:** (a) Will Government be pleased to state whether Government advertisements are published in newspapers for the information of the public or for financing the newspapers?

(b) Do Government or the Departments make any inquiry about the circulation of the newspapers before giving advertisements to the newspapers for publication?

The Honourable Mr. H. G. Haig: (a) Advertisements are given to newspapers for the purpose of giving information to the public.

(b) Yes.

AMOUNT SPENT ON NOTICES AND ADVERTISEMENTS PUBLISHED IN NEWSPAPERS.

1160. ***Mr. M. Maswood Ahmad:** (a) How much has been spent on notices and advertisements published in newspapers by the Railway authorities and by other Departments (separately) during the last five years?

(b) What amounts were paid to different newspapers for advertisements by the Railway Board and by the State-managed Railways?

The Honourable Mr. H. G. Haig: (a) and (b). Departments of the Government of India publish very few advertisements and the collection of information as to the expenditure incurred would entail a considerable amount of labour which I am not prepared to ask them to undertake. As regards advertisements by railways, separate records of the cost of notices and advertisements are not maintained by railways, and Government regret that they are not in a position to supply the information.

Mr. M. Maswood Ahmad: Will Government be pleased to supply the information even for one year?

The Honourable Mr. H. G. Haig: I think, Sir, it would involve a considerable amount of labour to collect the information.

Dr. Ziauddin Ahmad: Do they not keep the accounts of the payment?

The Honourable Mr. H. G. Haig: Accounts are not kept in that form.

Mr. R. S. Sarma: Is it not a fact, Sir, that nearly 80 per cent. of the Government advertisements are published in the Congress and anti-Government press rather than in newspapers that are friendly to Government?

The Honourable Mr. H. G. Haig: As I have just informed the House, I have no information about the distribution of advertisements.

Mr. R. S. Sarma: As one who has studied this matter, will the Honourable the Home Member take it from me that it is so.

The Honourable Mr. H. G. Haig: I am always prepared to receive information from Honourable Members.

Mr. M. Maswood Ahmad: Will Government be pleased to supply a list of the papers to which they have given advertisements during the last year?

The Honourable Mr. H. G. Haig: I think the Honourable Member behind me (Mr. Sarma) will be able to supply the required information.

Mr. M. Maswood Ahmad: Can Mr. R. S. Sarma reply on behalf of the Government?

ACTION TAKEN ON THE RECOMMENDATION OF THE BANKING ENQUIRY COMMITTEE.

1161. ***Mr. M. Maswood Ahmad:** (a) Have Government taken any action on the recommendation of the Banking Enquiry Committee?

(b) What action do Government propose to take on the recommendation of the Banking Enquiry Committee?

The Honourable Sir Alan Parsons: The attention of the Honourable Member is invited to the statement laid by me on the table of the House on the 30th September, 1982.

REVISION OF THE RATES FOR FOOD AND AERATED WATER SUPPLY IN TRAINS AND ON STATIONS.

1162. ***Mr. M. Maswood Ahmad:** (a) Are Government aware that the prices of commodities have fallen to a very great extent?

(b) Do Government propose to revise the rates for food and aerated water supply in trains and on stations?

Mr. P. R. Rau: (a) Government are aware that the prices of certain commodities have fallen.

(b) The question of fixing the rates for food and aerated waters in trains and on stations is settled by Railway Administrations with their contractors without reference to Government and Government do not propose to interfere in the fixing of such rates. A copy of this question will however be sent to all railway administrations for consideration.

Mr. K. Ahmed: Are Government aware that the prices of articles of food supplied on railways by contractors' men are much higher than those that are supplied by railways in England and in other countries?

Mr. P. R. Rau: No, Sir, I am not aware of the fact, but I am quite prepared to take it from my Honourable friend.

Mr. M. Maswood Ahmad: In which year were these rates revised?

Mr. P. R. Rau: I do not think that there was any particular year in which rates were generally revised, Sir.

Dr. Ziauddin Ahmad: Is the Honourable Member aware that at present there exists a very great dissatisfaction among the public about the high rates which these railway vendors charge?

Mr. P. R. Rau: Such statements have been made on the floor of this House and I am quite prepared to accept that as the view of many Honourable Members opposite.

Mr. M. Maswood Ahmad: Is it a fact that the rates for soda water, lemonade and ice have not been revised since three years at least?

Mr. P. R. Rau: Possibly, Sir, but I cannot say without making inquiries on that point.

Mr. M. Maswood Ahmad: Will the Honourable Member be pleased to inquire into that and ask the authorities to revise the rates?

Mr. P. R. Rau: If my Honourable friend will give me notice of the question.

Mr. K. Ahmed: In view of the fact that the Railways are run in this country on a commercial basis, do Government propose also to start restaurant cars on a commercial basis so as to give facilities to the travelling public such as exist in other countries,—on the East Indian Railway, for instance?

Mr. P. R. Rau: I am sure the East Indian Railway do run restaurant cars.

Mr. K. Ahmed: The Honourable Member does not understand the question.

Mr. P. R. Rau: It is very difficult to understand my Honourable friend's questions.

Mr. K. Ahmed: Will the Honourable Member kindly exercise a little bit of application of mind? What I mean is that, would it not be better for the Government Railways in this country to take up the catering job so as to give facilities to passengers and the travelling public on exactly the same principles as are in vogue in the Railway Administrations of other countries? That is to say, the same railway authority that takes up the administration of a railway—not the Railway Board up here—should appoint the manager of the catering department and thus the Government will pay the cost and they will collect the prices of the articles of food supplied?

Mr. P. R. Rau: The only Railway that has at present a departmental catering system is the Bengal-Nagpur Railway, and I am not sure that it is on a paying basis. I do not think that Government can embark on this catering business in the present financial conditions.

Mr. K. Ahmed: If the other countries can take up and have taken up such work (notwithstanding the example of the Bengal-Nagpur Railway quoted by the Honourable Member) and the prices of articles of food are thus reduced, so that facilities can be given to passengers who are at present the victims of the maladministration of the contractors' catering on the railways, is it not a fact that thereby more income can be secured so that in every way the services of my Honourable friend will be more acceptable to this country if, on the one hand, additional facilities are afforded to the travelling public and, on the other hand, more income is secured to the Railways by their adopting the popular method?

Mr. P. R. Rau: Sir, the fact that the Bengal-Nagpur Railway Catering Department has not been a paying concern for some time is well-known to members of the Public Accounts Committee.

Mr. K. Ahmed: That is not the answer to my question, surely the contractors make profit.

INCREASE OF THE BURDEN OF INDEBTEDNESS.

1163. ***Mr. M. Maswood Ahmad:** (a) Has the attention of Government been drawn to the finding of the Controller of Currency given in his Report for the year 1931-32:

"That fall in commodity prices had increased the real burden of indebtedness by more than 50 per cent. and such an increase would be beyond the capacity of most debtors to pay."

(b) Are Government aware that rates of interest are very high in India?

(c) Are Government aware that the value of money has been increased?

(d) What action do Government propose to take to decrease the indebtedness?

(e) What action do Government propose to restrict the interest to some limit?

(f) What other actions do Government propose to take in this connection?

The Honourable Sir Alan Parsons: (a) and (c). Yes. The fall in commodity prices is due to world causes and is not confined to India. The steps to be taken to raise prices are engaging the serious attention of all Governments.

(b), (d), (e) and (f). The rates of interest on money, as shown by the bank rate of the Imperial Bank of India, are half of what they were twelve months ago, and the Government of India are trying to keep them as low as possible.

CONVERSION OF LOANS OF HIGH INTEREST TO THOSE OF LOW INTEREST.

1164. ***Mr. M. Maswood Ahmad:** (a) Are Government aware that the British Government have converted the loan having a high percentage of interest into a loan having a low percentage of interest?

(b) Do the Government of India propose to adopt the same policy? If not, why not?

(c) What amount will be saved annually if the conversion policy be adopted?

The Honourable Sir Alan Parsons: (a) Yes.

(b) and (c). We are following the same policy. In the last seven months we have replaced about Rs. 35 crores of rupee debt and £6 millions of sterling debt by longer term loans at an average annual saving of approximately Rs. 40 lakhs.

OFFICERS IN THE CUSTOMS AND INCOME-TAX DEPARTMENTS IN THE BOMBAY PRESIDENCY TO WHOM EXTENSIONS OF SERVICE WERE GRANTED.

1165. ***Mr. M. Maswood Ahmad:** (a) Is it a fact that the number of officers in the Customs and Income-tax Departments (gazetted and non-gazetted non-ministerial) in the Bombay Presidency to whom extensions of service were granted during 1928-29 to 1931-32 were 24 and 7, respectively?

(b) Will Government be pleased to state how many of them are Europeans, Anglo-Indians and Indians and also the names, pay, and length of service of the officers?

The Honourable Sir Alan Parsons: (a) The actual number of officers granted extension in the Customs Department was 19 and in the Income-tax Department, five. These figures differ from those given in a reply to a question in the Council of State last September Session, which the Honourable Member has, I think, in mind and which in five cases included the same officers more than once because they had received more than one extension, while two other officers, who were on extension in 1927-28, were wrongly included in the figures for the period to which the question related. I am glad of the opportunity afforded by my Honourable friend's interpellation to correct this mistake.

(b) A statement is laid on the table.

Statement showing names, nationality, pay and length of service of the officers of the Customs and Income-tax Departments (Gazetted and Non-gazetted Non-ministerial) in the Bombay Presidency who were granted extensions of service during 1928-29 to 1931-32.

Name.	Nationality.	Pay.	Length of service before grant of extension or extensions.
1	2	3	4
<i>Customs Department.</i>		Rs.	Y. M. D.
1. A. Pereira	Anglo-Indian	420 + 50 (personal pay)	34 0 17
2. A. D. Cama	Indian	440	33 0 28
3. Bundeali Mohd. Fazal	Indian	340	34 1 4
4. T. M. O'Reilly	European	575	34 0 9
5. G. Kelly	European	575	36 9 9
6. D. M. Raja	Indian	550	31 6 3
7. T. G. Mooney	European	575	36 1 28
8. B. J. Treasurywala	Indian	550	30 7 14
9. J. Samuel	Indian	250	34 4 20
10. R. P. Sharman	European	575	30 5 10
11. G. Clark	Anglo-Indian	575	35 6 28
12. F. X. D'Mello	Indian	500	30 3 10
13. B. F. Fernandes	Indian	310	36 3 18
14. Tajuddin Mohd. Hussain	Indian	30	33 8 16 (including inferior service 13 years 9 months and 25 days).
15. Abdul Gafur Mohd. Cassim	Indian	30	33 3 0 (including inferior service for 12 years 8 months and 7 days).
16. V. N. Shah	Indian	180	34 2 17
17. D. B. Donde	Indian	125	33 5 29
18. G. R. Varadkar	Indian	160	32 10 4
19. G. R. Javkar	Indian	200	34 6 12
<i>Income-tax Department.</i>			
1. G. C. Nowly	Indian	400	30 2 0
2. R. S. Isardas Parumal	Indian	750	33 0 0 (approximately).
3. J. P. Dhebar	Indian	250	7 0 0
4. J. D. Dave	Indian	225	33 0 0
5. Dandumal Vadhumal	Indian	325	34 0 0

LOWERING OF THE POSTAL RATES.

1166. ***Mr. M. Maswood Ahmad:** (a) Will Government be pleased to state the income from the Indian Telegraph Department in the half year ending 30th September, 1932, and the corresponding income for 1930?

(b) Will Government be pleased to state the income from the sale of $1\frac{1}{4}$ annas, one anna, $\frac{1}{2}$ anna and $\frac{1}{4}$ anna stamps and of stamped envelopes and postcards in the half-year ending 30th September, 1932, and the corresponding figure of income for 1930?

(c) Will Government be pleased to state whether they have gained or they have lost by the increase of the postal rates?

(d) Do Government propose to decrease the postal rates if they find any loss in the income in comparison with the previous years, on account of the experimental increase of the postal rates?

The Honourable Sir Frank Noyce: (a) A large part of the receipts from telegrams is collected through the medium of postage stamps and a distribution of such receipts between the postal and telegraph branches is made at the end of each financial year. It is not possible to give figures of income for the telegraph branch alone for a portion of any year.

(b) No separate account of the sale proceeds of stamps of particular denominations is maintained. The information required by the Honourable Member is therefore not available.

(c) So far as can be ascertained the increases in postal rates have resulted in a net gain.

(d) In view of the reply to part (c) Government have not yet had occasion to consider the matter.

ACCUMULATION OF STERLING PENSIONS.

1167. ***Mr. M. Maswood Ahmad:** (a) Are Government aware that sterling pensions accrue in India?

(b) Have Government taken legal advice on the question whether the sterling pension accrues in India or outside India? If not, do they propose to take it now?

The Honourable Sir Alan Parsons: (a) That is the view held by the Government.

(b) The answer to both questions is in the negative.

LOSS SUSTAINED BY GOVERNMENT DUE TO THE ISSUE OF THE FINANCE DEPARTMENT NOTIFICATION NO. 1319-F., DATED THE 28TH APRIL, 1920.

1168. ***Mr. M. Maswood Ahmad:** (a) What amount did Government lose on account of the exemption of the leave salary, salary, allowances, leave allowances and pensions of officers in 1931-32 under Notification No. 1319-F., Government of India, Finance Department, dated Simla, the 28th April, 1920?

(b) What were the reasons for issuing the Notification mentioned above?

The Honourable Sir Alan Parsons: (a) No amount so far as concerns pensions and leave salaries paid to officers not returning to India, because even if there were no exemption, tax could not be recovered.

In regard to leave allowances, it is practically impossible to compile the information asked for. In order to do so a *pro forma* assessment would have to be made on each officer concerned. A rough estimate is about 10 to 15 lakhs per annum.

(b) Because the privilege had been in existence for a great many years and it was not considered expedient to withdraw it.

ARMED GUARDS FOR ARMOURIES AND TREASURIES OF STATIONS OF THE EAST INDIAN RAILWAY AND THE EASTERN BENGAL RAILWAY.

1169. ***Mr. M. Maswood Ahmad:** (a) At what stations of the East Indian Railway and Eastern Bengal Railway are armed guards employed to guard the armoury or treasury? Since what year has this system been inaugurated?

(b) What was the expense on this item at each station during the years 1980-81 and 1981-82?

(c) Will Government state what is the communal composition of this force giving the numbers of Hindus, Muslims, Anglo-Indians, Europeans and others?

(d) Is this a permanent service or a temporary one, and what are the rates of pay of the entrants and the requisite qualifications?

(e) Were these posts advertised? If so, in what papers, and by whom?

(f) Is it a fact that formerly the Government Railway Police were in charge of this duty? If so, why are they no longer employed to discharge this duty.

Mr. P. R. Rau: I have called for certain information to enable me to reply to this question. I shall place a reply on the table in due course.

VOTERS' LIST FOR THE CONSTITUENCIES OF THE CENTRAL AND PROVINCIAL LEGISLATURES.

1170. ***Mr. M. Maswood Ahmad:** Do Government propose to keep in the Library a copy of the voters' list for the constituencies of the Central and Provincial Legislatures for references in connection with the new reforms?

The Honourable Sir B. L. Mitter: The precise import of the question is not clear. There is available in the Library of the House the usual return showing the results of elections to the Central and Provincial Legislatures, and containing information in regard to constituencies, numbers of voters, votes polled, etc. It is not apparent what practical purpose would be served by a list of the names of voters for all the Legislatures, the value of which would not in any case be commensurate with the time, labour and expense involved in its preparation and maintenance.

Mr. M. Maswood Ahmad: Are Government aware that these copies are sold by Local Governments at a very cheap rate and Government can easily purchase them and keep them in the Library, because, in connection with the new reforms, Members do wish to consult them and to see the number of voters and compare many other things?

The Honourable Sir Brojendra Mitter: If these copies are sold cheaply, surely the Honourable Member may buy himself. Anyhow, if it is the desire of the Honourable Member, there is no objection to buy these copies and keep them in the Library.

Mr. M. Maswood Ahmad: Thank you for the undertaking. Further, I inform you, that Members purchase for their Libraries, but can not bring their Libraries to Delhi and Simla.

REDUCED SCALES OF SALARIES AND ALLOWANCES FOR THE FUTURE ENTRANTS TO SUPERIOR CIVIL AND ARMY SERVICES.

1171. *Mr. M. Maswood Ahmad: (a) Is it a fact that the final decision regarding the reduced scales of salaries and allowances for the future entrants to Superior Civil and Army Services is under active consideration of the Government?

(b) By what time do Government propose to announce the final decision?

The Honourable Sir Alan Parsons: (a) and (b). No final decision has yet been reached. The matter is under active consideration.

Dr. Ziauddin Ahmad: May I ask, Sir, whether it is not a fact that the officer on special duty was appointed on the recommendation of the Retrenchment Committee? Will his report be considered by the Retrenchment Committee?

The Honourable Sir Alan Parsons: I am not quite sure, Sir, that the officer was appointed on the recommendation of the Retrenchment Committee, but I am quite sure that the Retrenchment Committee were aware that Government proposed this appointment. I cannot speak for myself, but I am fairly sure that Sir George Schuster, on his return, will call a meeting of the Retrenchment Committee to consider the work that this officer has done.

Dr. Ziauddin Ahmad: In a meeting of the Retrenchment Committee it was explicitly mentioned that the officer on special duty will prepare a preliminary report and that report will be laid before the Retrenchment Committee.

The Honourable Sir Alan Parsons: That is not exactly what I, at any rate, understood from the minutes which I saw of that meeting of the Committee, but, I think, my Honourable friend may take it that his work will be considered by the Retrenchment Committee.

Dr. Ziauddin Ahmad: I have not seen the minutes, but it was discussed whether an officer on special duty should be appointed and afterwards it was decided by a majority that an officer should be placed on special duty and his report, at least in principle, should be discussed by the Retrenchment Committee.

The Honourable Sir Alan Parsons: The Honourable Member will not think that I am for a moment disputing his account of what occurred at a meeting of the Retrenchment Committee at which I was not present.

PAYMENTS MADE TO THE BRITISH INDIA STEAM NAVIGATION COMPANY AND OTHER BRITISH SHIPPING COMPANIES.

1172. *Mr. M. Maswood Ahmad: (a) Is it a fact that the British India Steam Navigation Company received from the Government of India a sum of Rs. 15,18,000?

(b) Is it a fact that a number of other British shipping companies get subsidy or subventions from the Government of India?

(c) For what services rendered by the British India Steam Navigation Company and other British Companies are payments made?

(d) Will Government be pleased to lay on the table the terms of the contracts?

The Honourable Sir Frank Noyce: (a) and (b). The Honourable Member's attention is drawn to the reply given on the 21st September, 1932, to parts (d) and (e) of the Honourable Raj Bahadur Lala Jagdish Prasad's question No. 74 in the Council of State.

(c) The Honourable Member is referred to items (1) to (15) and (26) to (64) of Appendix XI, pages 100 to 103 of the Posts and Telegraphs Department Annual Report for the year 1930-31.

(d) Copies of the contracts with the British India Steam Navigation Company and the Irrawaddy Flotilla Company have been placed in the Library. The existing agreement for the rendering of certain services by the River Steam Navigation Company and the Indian General Navigation Company was made in 1931 and is being embodied in a formal contract which has not yet been executed.

LIST OF NAMES SUGGESTED FOR THE THIRD ROUND TABLE CONFERENCE TO HIS MAJESTY'S GOVERNMENT.

1173. *Mr. M. Maswood Ahmad: (a) Will Government be pleased to state whether they had recommended some names for the Third Round Table Conference to His Majesty's Government?

(b) Will Government be pleased to state whether all the names suggested by them were accepted by His Majesty's Government?

(c) Will Government be pleased to state what alterations were made by His Majesty's Government in the list of names suggested?

(d) Will Government be pleased to lay on the table the list of names suggested by them for the Third Round Table Conference to His Majesty's Government?

The Honourable Sir B. L. Mitter: (a) As has been repeatedly stated in this House, the Honourable Member no doubt realizes that this matter is not the concern of the Governor General in Council.

(b), (c) and (d). Do not arise.

Mr. B. Das: May I inquire if the Governor General in Council had any knowledge of the names that were selected for the Round Table Conference by the British Government and which were subsequently announced by the British Government?

The Honourable Sir Brojendra Mitter: The Governor General in Council had no information whatsoever.

RESOLUTIONS OF THE INDIAN LEGISLATURE.

1174. *Mr. M. Maswood Ahmad: Will Government be pleased to lay on the table a statement in respect of the Legislative Assembly from the inception of the Montford Reforms up till the end of the last Session showing:

(a) the Resolutions which were admitted by the Presidents;

(b) the Resolutions which were disallowed by the Governor General;

- (c) the Resolutions which were moved in the Legislative Assembly;
- (d) the Resolutions which were negatived;
- (e) the Resolutions which were withdrawn by the Movers on some assurances given by the Government;
- (f) the Resolutions which were passed; and
- (g) what actions were taken on the Resolutions mentioned in parts (e) and (f)?

The Honourable Sir Brojendra Mitter: The information is being collected and will be laid on the table in due course.

PREPONDERANCE OF EUROPEANS AND ANGLO-INDIANS AMONG THE SENIOR SUBORDINATE OFFICERS IN THE CUSTOMS SERVICE.

1175. ***Mr. M. Maswood Ahmad:** (a) Is it a fact that there is a large preponderance of Europeans or Anglo-Indians among the senior subordinate officers in the Customs service?

(b) What procedure do Government propose to follow in future recruitment, to avoid the preponderance of any one community among the senior subordinate officers?

The Honourable Sir Alan Parsons: (a) Yes.

(b) The Government are following their ordinary rule, namely, the reservation of one-third of all permanent vacancies for the redress of communal inequalities.

TRAINING OF APPRENTICES FOR THE SUPERIOR REVENUE ESTABLISHMENT OF THE INDIAN STATE RAILWAYS AT JAMALPUR.

1176. ***Mr. M. Maswood Ahmad:** (a) Is it a fact that apprentices for the Superior Revenue Establishment of the Indian State Railways are trained at Jamalpur?

(b) Is it a fact that, after an examination in the third year, either they are selected for further training in England or they are doomed to be turned out of the institution?

(c) Is it a fact that there are no external examiners for the third year examination?

(d) Is it a fact that the question of appointing all the examiners from outside the institution was under the consideration of Mr. Hayman, a Member of the Railway Board?

(e) Do Government propose to consider the desirability of having external examiners for the third year examination?

Mr. P. R. Rau: (a) Apprentices for the Mechanical Engineering and Transportation (Power) Departments of the Superior Revenue Establishment of State-managed Railways are trained at Jamalpur.

(b) The selection for further training in England is after the 4th year of training and those not so selected are liable to be discharged.

(c), (d) and (e). Yes.

STRENGTH OF OFFICERS IN THE JAMALPUR WORKSHOP.

1177. ***Mr. M. Maswood Ahmad:** (a) Leaving the chargemen, what is the strength of officers in the Jamalpur workshop?

(b) How many of these officers are Muslims, non-Muslims and Christians (including Anglo-Indians and Europeans)?

Mr. P. R. Rau: With your permission Sir, I propose to reply to questions Nos. 1177, 1178 and 1179 together.

I have called for information regarding part (a) of these questions and will lay a reply on the table, in due course. Government regret that they are unable to give a reply to part (b) of these questions. Information regarding the communal composition of railway staff by various categories is given in the annual administration reports on Indian railways and Government are unable to supplement these statistics by details about individual offices or classes of staff.

STRENGTH OF CHARGEMEN AT THE JAMALPUR WORKSHOP.

†1178. ***Mr. M. Maswood Ahmad:** (a) What is the strength of the chargemen in the Jamalpur workshop?

(b) How many of them are Muslims, non-Muslims and Christians (including Anglo-Indians and Europeans)?

PROFESSORS AND DEMONSTRATORS IN THE TRAINING INSTITUTE, JAMALPUR.

†1179. ***Mr. M. Maswood Ahmad:** (a) How many Professors and Demonstrators are there in the Training Institute, Jamalpur (separately)?

(b) How many Professors and Demonstrators (separately) are Muslims, non-Muslims, Christians (including Anglo-Indians and Europeans)?

STUDENTS ADMITTED IN THE TECHNICAL SCHOOL AT JAMALPUR FOR TRAINING.

1180. ***Mr. M. Maswood Ahmad:** (a) How many students have been admitted during the last ten years in the technical school, Jamalpur, for training?

(b) How many of them were Muslims, non-Muslims and Christians (including Anglo-Indians and Europeans)?

(c) How many Muslims, non-Muslims and Christians (including Anglo-Indians and Europeans) from amongst the admitted were sent to England for further training?

† For answer to this question, see answer to question No. 1177.

(d) If a certain percentage is not fixed for Muslims for admission, what other method do Government propose to adopt for the adequate representation of Muslims in the appointments filled from amongst these students?

Mr. P. R. Renu: (a) and (b). The recruitment of special class apprentices for the Mechanical Engineering and Transportation (Power) Departments of State Railways started from 1926-27. The number of apprentices recruited up to date is 31 Hindus, 11 Muslims, 9 Anglo-Indians, 8 Indian Christians and 4 of other communities.

(c) The number of apprentices sent to England for further training on completion of their training in India is five Hindus, three Muslims, one Anglo-Indian, two Indian Christians and one Parsee.

(d) No percentage is fixed for any particular community. The initial recruitment and subsequent selection for training in England are made in accordance with rule 4 of Part I and Rule 4 of Appendix I, to the Regulations for recruitment to these Departments, copies of which are in the Library of the House. This rule provides that one-third of the vacancies will be reserved by the Government of India to redress as far as may be necessary marked communal inequalities.

UNSTARRED QUESTIONS AND ANSWERS.

FILTERED WATER SUPPLY IN NEW DELHI.

179. **Mr. S. C. Mitra:** Will Government be pleased to refer to the reply to starred question No. 599, dated the 19th February, 1931, and state if the charge of filtered water supply in New Delhi has been transferred to the New Delhi Municipality; if so, from what date and what method has been adopted by the New Delhi Municipality? If there has been any change in the previous arrangements, will Government state the reasons for the same?

Mr. G. S. Bajpai: Arrangements for the supply of filtered water in New Delhi were transferred to the New Delhi Municipal Committee with effect from the 1st March, 1932. The Honourable Member presumably wishes to know whether there has been any change in the method of recovering water charges. Except that the bills are now sent monthly instead of quarterly, there has been no change.

UNSUITABLE SITE FOR QUARTERS AT PAHAR GANJ, DELHI.

180. **Mr. S. C. Mitra:** (a) Will Government be pleased to refer to unstarred question No. 87 answered on the 20th January, 1930, and state if the portion of land in the vicinity of 'E' Type quarters near Pahar Ganj, which was being used as a dumping ground, has since been closed and the throwing of filth therein stopped?

(b) Have the quarters referred to at part (a) above been allotted to, and occupied by, clerks, and have they made any complaint about bad smell on account of the dumping ground?

(c) Are Government prepared to ask the Industries Member and Health Member to visit the area at least twice during the summer months, especially after rain-fall, to enable them to realise the difficulties of the neighbouring inhabitants? If not, why not?

(d) If any decision on the subject has since been arrived at, will Government be pleased to lay a copy of the same on the table together with a copy of the statement from the occupants of the quarters referred to at part (b) above in support of their having no complaint in the matter? If not, why not?

Mr. G. S. Bajpai: (a) No dumping is now going on within the New Capital Area near the quarters referred to by the Honourable Member. It is, however, understood that a portion of land near these quarters, which is within the limits of the Delhi Municipality, is still being used as a dumping ground by that body and has not yet been closed owing to lack of funds.

(b) The quarters have all been allotted and are now occupied. Certain complaints regarding bad smell were received in 1930 and 1931, but none have been received since.

(c) and (d). No. The Honourable Member will realise that as the area, still being used as dumping ground, is within the jurisdiction of the Delhi Municipal Committee who use it as such, final decision in the matter does not rest exclusively with Government, but the Delhi Municipal Committee are being consulted.

WATER TAPS ON THE ROADS IN NEW DELHI.

181. **Mr. S. C. Mitra:** Will Government be pleased to state:

- the total number of water taps on the roads in New Delhi; if none, why;
- if the necessity of water taps on the roads in New Delhi has been ever considered; if so, what arrangements have been made for the provision of water aid in case of any attack with sunstroke during the extreme heat of New Delhi;
- what the total number of deaths has been in New Delhi on account of sunstroke this year;
- whether Government ever considered the necessity of providing water taps on the roads in New Delhi; and
- whether Government propose to issue necessary orders immediately for the provision of a sufficient number of water taps on the roads in New Delhi?

Mr. G. S. Bajpai: (a) Seven. In addition, there are water taps near Tonga Stands, Dhobi Ghats, Coolie Lines and Peons' quarters which are accessible to the public.

(c) One.

(b), (d) and (e). Do not arise.

SUPPLY OF FILTERED WATER IN NEW DELHI.

182. **Mr. S. C. Mitra:** Will Government be pleased to state:

- who is the authority in charge for the supply of filtered water in the New Delhi area this year;
- who was in charge for the supply of filtered water in the New Delhi area last year and year before last;
- whether supply of filtered water was ever stopped for any length of time during the day in previous years; if so, when;
- if the reply to part (c) above be in the negative, the reasons for the stoppage of the supply of filtered water between 9 A.M. and 5 P.M. this year during the extreme hot weather of New Delhi;
- whether Government are aware that this action resulted in a great inconvenience, troubles and unnecessary expenditure to the occupants of Government quarters and private houses in New Delhi; and
- whether the matter was represented to Government by the occupants of Government quarters individually, jointly or through any agency; if so, what action has been taken; if none, why not?

Mr. G. S. Bajpai: (a) New Delhi Municipal Committee.

(b) Central Public Works Department.

(c) Yes. In 1931, water supply was closed from 2nd May to 6th May between the hours of:

(i) 12 Noon to 2 P.M.

(ii) 10 P.M. to 4 A.M.

and from the 7th May to 1st June, from 10 P.M. to 4 A.M.

(d) Does not arise.

(e) This action might have caused temporary inconvenience, but there was no hardship.

(f) Some representations were received on the subject. The question of improving the water supply of Delhi is under consideration.

POPULATION AND CONSUMPTION OF WATER IN NEW DELHI.

183. **Mr. S. C. Mitra:** Will Government be pleased to state separately in a tabulated form:

- the total population of New Delhi during the last winter months and the present summer months;
- the total amount of monthly consumption of filtered water in New Delhi during the winter and the present summer months; and
- what was the population and consumption of water during both the seasons in 1929, 1930 and 1931?

Mr. G. S. Bajpai: (a), (b) and (c). A statement giving the information asked for is laid on the table. The figures of population are approximate.

Statement showing consumption of filtered water supply in gallons in New Delhi during 1929 to 1932 (till August).

Month.	Consumption of filtered water supply.				Population.						
	1929.	1930.	1931.	1932.	1929-30.		1930-31.		1931-32.		1932-33.
					Summer.	Winter.	Summer.	Winter.	Summer.	Winter.	
January	3,57,64,000	4,20,53,000	5,95,50,000	6,19,38,000	28,956	32,133	29,401	35,956	55,984	64,855 (Census)	56,000
February	3,51,62,000	4,37,82,000	5,04,39,000	6,01,07,000							
March	4,99,59,000	6,00,20,000	6,72,09,000	7,18,00,000							
April	4,20,02,000	5,15,26,000	6,60,03,000	6,28,90,000							
May	4,68,12,000	5,81,54,000	6,28,74,000	6,30,52,000							
June	4,76,76,000	5,32,18,000	6,36,57,000	6,12,91,000							
July	4,74,81,000	5,19,76,000	6,25,85,000	6,09,70,000							
August	4,51,61,000	4,98,83,000	5,81,89,000	5,40,36,000							
September	4,53,61,000	4,87,17,000	5,01,38,000	..							
October	4,51,17,000	5,36,51,000	5,61,27,000	..							
November	4,58,00,000	5,70,42,000	5,87,10,000	..							
December	4,15,96,000	5,44,42,000	5,68,54,000	..							

LOCATION OF THE WIRELESS BRANCH OF THE OFFICE OF THE DIRECTOR
GENERAL OF POSTS AND TELEGRAPHS.

184. **Mr. S. O. Mitra:** Will Government be pleased to refer to starred question No. 243 answered on the 9th September, 1929, and state;

- (a) whether the Wireless Branch has since been located in Delhi in its entirety and whether Government have provided sufficient accommodation for the office and staff at Delhi;
- (b) if the reply to any part of (a) above be in the negative, the reasons for locating the Branch permanently in Delhi; and
- (c) whether the clerks of that Branch who have not been provided with residential accommodation have been suitably compensated, if so, in what shape; if not, why not?

Mr. T. Ryan: (a) The Wireless Branch was located permanently at New Delhi from the end of 1930. Office and residential accommodation for the staff of that branch have been provided except that in the case of two clerks residential quarters have not yet become available.

(b) As a measure of economy and with a view to facilitating the working of the Branch.

(c) As the two clerks, for whom residential quarters have not yet become available, do not belong to the staff moving regularly between New Delhi and Simla, the question of the grant to them of compensation, admissible to the latter staff not provided with quarters while at New Delhi, does not arise.

MOVE OF THE SUPERINTENDENT OF THE WIRELESS SECTION OF THE
OFFICE OF THE DIRECTOR GENERAL OF POSTS AND TELEGRAPHS
BETWEEN DELHI AND SIMLA.

185. **Mr. S. O. Mitra:** Will Government be pleased to refer to starred question No. 247 answered on the 9th September, 1929, and state:

- (a) if the Superintendent of the Wireless Branch still moves between Simla and Delhi for the reasons stated by Government; if not, why not;
- (b) if the reply to part (a) above be in the negative, whether the interests of the service will not now be best served by moving the Superintendent with the Director, Wireless; and
- (c) if the same Superintendent is still in the Branch; if not, whether the new Superintendent is not considered suitable to move between Simla and Delhi with the Director, Wireless, or whether he is not conversant with the different classes of work done in the Branch?

Mr. T. Ryan: (a) No, because the headquarters of the Wireless Section is now located at New Delhi.

(b) No.

(c) The same Superintendent is not still in the branch. The rest of the question does not arise in view of the reply to part (a).

GRIEVANCES OF TICKET COLLECTORS.

186. **Mr. T. N. Ramakrishna Reddi:** (a) Has the attention of Government been drawn to the correspondence that appeared in the *Swarajya* daily dated 18th May, 1932, under the heading "Grievances of Ticket Collectors"?

(b) If so, do Government propose to take any steps to redress these grievances?

Mr. P. R. Rau: (a) Yes.

(b) A copy of the letter has been sent to the Agent, Madras and Southern Mahratta Railway, for such action as he may consider necessary.

REMOVAL OF A PORTION OF THE GOVERNMENT OF INDIA CENTRAL
PUBLICATION BRANCH FROM CALCUTTA TO DELHI.

187. **Haji Chaudhury Muhammad Ismail Khan:** (a) Will Government be pleased to state whether it has been finally decided:

- (i) to remove to Delhi a portion of the Government of India Central Publication Branch now located in Calcutta;
- (ii) to discharge the temporary staff now working in that portion; and
- (iii) to recruit temporary hands in their places in Delhi?

(b) Are Government aware that the temporary staff in the Calcutta office are willing to come to Delhi at their own cost provided that the continuity of their service is not broken?

(c) If the answer to part (b) be in the affirmative, what is the decision of the Government in the matter?

The Honourable Sir Frank Noyce: (a) Yes.

(b) and (c). The Controller has agreed to a proposal made by the Manager, Central Publication Branch, that the temporary men discharged at Calcutta may be re-employed in Delhi provided that they travel to that station at their own expense. It is within the competence of the appointing authority to condone any interruption in service of the men so re-employed.

COMMUNAL PERCENTAGE OF EX-APPRENTICES APPOINTED IN THE EAST
INDIAN RAILWAY WORKSHOP AT LILLOOAH.

188. **Mr. S. O. Mitra:** Will Government please state the percentage of European, Anglo-Indian and Indian ex-apprentices (who were trained in the East Indian Railway Mechanical Department, Lillooah) appointed as Mechanics, Draughtsmen and Chargemen in the East Indian Railway Workshop (Mechanical), Lillooah, since 1929?

Mr. P. R. Rau: I have called for information and will lay a reply on the table, in due course.

UNIFORM POLICY FOR ALL RAILWAY STAFF IN THE MATTER OF RECORDING
OF ADVERSE OR CONFIDENTIAL REPORTS.

189. **Mr. Gaya Prasad Singh:** (a) Will Government please state whether they have a uniform policy for all staff (officers as well as subordinates) under the control of the Railway Board that happen to be adversely reported on confidentially or otherwise?

(b) Is this policy as stated by the Railway Board (viz., "That it is the practice to obtain and consider the explanation of an employee before a decision is arrived at to record an adverse remark on his service record") yet in force for both officers and subordinates? If there is any distinction, in what way, and why?

(c) If the policy exists of obtaining and considering an explanation, and it is found that the person or persons adversely reported on had not been given an opportunity of submitting their explanation or defence, are Government prepared to consider what disciplinary action should be taken against the officials guilty of this omission?

(d) Do Government propose to consider the advisability of directing that all documents, such as personal files, service sheets, and records, in which adverse remarks are made, be given under adequate safeguards to the person concerned for perusal?

(e) Are Government aware that adverse remarks are often made by the clerical staff on small pay on personal files, and that these remarks are accepted point blank by the supervisory and higher staff, and do Government propose to take steps so that every man may review his personal file and service sheet once a year, and always at the time when he is charged with any offence?

Mr. P. R. Rau: (a) and (b). For officers the general rule is that in no case should an officer be kept in total ignorance for any length of time that his superiors are dissatisfied with him. Where, however, criticism is to be withheld, the period for which communication is to be kept back should be recorded with reasons by the Agent or Head of Department concerned. Agents have been advised that in the opinion of the Railway Board it is in most cases inadvisable for an officer to be given an unfavourable confidential report before an opportunity has been taken of pointing out to him the defects noticed in him or his work. In the case of subordinates the procedure is laid down by the railway administrations. As a result of enquiries made in 1929 the Railway Board understand that while on some railways the general practice is to give the railway employees concerned an opportunity of giving an explanation before adverse reports are recorded, on others the substance of such reports, after they are recorded, is communicated to them.

(c) This is a hypothetical question. Government will consider what action is necessary when such a case arises.

(d) Government do not consider any such instructions necessary.

(e) The answer to the first part of the question is in the negative but the Honourable Member's question will be brought to the notice of the Agents of State-managed Railways to enable them to consider whether any action is necessary.

INDIAN ASSISTANT SUPERINTENDENTS OF POLICE IN THE BOMBAY PRESIDENCY.

190. **Seth Haji Abdoola Haroon:** (a) Will Government be pleased to state how many Indian Assistant Superintendents of Police have been taken direct in the Bombay Presidency, since 1923?

(b) Will Government be pleased to state how many of them are Hindus, Muhammadans, Parsis and Anglo-Indians?

(c) Will Government be pleased to state how many of these directly recruited Assistant Superintendents of Police were taken by selection as the result of the Indian Police Service competitive examination and how many by nomination; in the latter case, whether they possess the minimum educational qualification of a degree of a University?

(d) Will Government be pleased to state if it is a fact that at present there is not a single Muhammadan on the list of 30 Assistant Superintendents of Police in the Bombay Presidency?

(e) If so, are Government prepared to draw the particular attention of the Public Service Commission to the total absence of the Muslim element in the cadre of the Assistant Superintendents of Police, with a view to considering the claims of Muslim candidates for recruitment in this service at the forthcoming selection, and thereby redress the grievance of the Muslim community?

The Honourable Mr. H. G. Haig: (a) Eight.

(b) Hindus 5, Muhammadan 1, Parsi 1 and Anglo-Indian 1.

(c) Four were appointed by competitive examination and four by nomination. Of the latter three were graduates. The only undergraduate was appointed in 1923 when the rules in force permitted the nomination, in special cases, of candidates who had passed the F. A. standard.

(d) The reply is in the affirmative.

(e) The matter is one for consideration in the first instance by the Local Government to whom I shall forward a copy of the question and answer.

CONDITION OF MAULANA MUFTI KIFAYAT ULLAH, PRESIDENT, JAMIYAT-UL-ULEMA-I-HIND, DELHI, IN MULTAN JAIL.

191. **Khan Bahadur Haji Wajihuddin:** Is it a fact that Maulana Mufti Kifayat Ullah Saheb, President, Jamiyat-ul-Ulema-i-Hind, Delhi, is suffering from serious heart disease and, if so, will Government be pleased to remove the anxiety of the Muslim public by publishing full details with regard to his disease, conditions and arrangements of treatment made and food provided for him by the local authorities at Multan Jail?

The Honourable Mr. H. G. Haig: Maulana Mufti Kifayat Ullah has had two attacks of palpitation of the heart, due to indigestion, during the last eight months. His condition is not at all serious and, on the elimination of red pepper from his diet, his digestion has improved considerably.

CLASSIFICATION OF MAULANA AHMAD SAIED, SECRETARY OF THE JAMIYAT-UL-ULEMA-I-HIND, DELHI, IN JAIL.

192. **Khan Bahadur Haji Wajihuddin:** Is it a fact that Maulana Ahmad Saied Saheb, Secretary of the Jamiyat-ul-Ulema-i-Hind, has not been granted the privilege of class 'A' in the Jail, as allowed to other political leaders of India and, if so, are Government prepared to consider the advisability of allowing him the same privilege? If not, why not?

The Honourable Mr. H. G. Haig: Maulana Ahmad Saied has been placed in "B" class. Recommendations for the classification of a prisoner into "A" or "B" class for purposes of jail treatment are made by the trying Court in accordance with the principles laid down in the Home

Department *Communiqué*, dated the 19th February, 1930, of which a copy is available in the Library. The trying Magistrate's recommendation in the case was confirmed by the Local Government after due consideration.

HARDSHIPS OF INDIAN PILGRIMS TO JEDDAH.

193. **Khan Bahadur Haji Wajihuddin:** (a) Are Government aware that since the last few years pilgrim passports, both originals and counterfoils, are taken from Indian pilgrims to holy places immediately they land at Jeddah and thereafter the original portions are not returned to them at the same time, as was the practice in the past, but are returned either next day or the day after resulting in the unnecessary stoppage of the pilgrims at Jeddah?

(b) Are Government prepared to have the said hardships removed without delay? If not, why not?

Mr. G. S. Bajpai: (a) and (b). When Indian pilgrims land at Jeddah, their passes which have no counterfoils are collected by Vakils for endorsement by the Passport Office, thereby saving individual detentions at the quay. The Vakils then enter particulars about the pilgrims in their own registers and take them to the British Legation to deposit their return tickets and obtain receipts for them. The short delay involved in the observance of this procedure is inevitable but is usually reduced to the minimum so that there is no undue hardship, and this interval is utilised by the Vakils in arranging for the clearance of pilgrims' luggage from the Customs House and its onward transportation.

TRANSLATION AND THE ORIGINAL TERMS OF THE AGREEMENT SIGNED BY THE MUSLIMS OF DELHI WHEN THE POSSESSION OF THE JUMA MASJID WAS GIVEN THEM IN 1862.

194. **Khan Bahadur Haji Wajihuddin:** Will Government be pleased to lay on the table a copy of the translation and the original terms of the agreement signed by the Muslims of Delhi when the possession of the Jumma Masjid was given to them by the Government in 1862 as promised in reply to question No. 847 in the meeting of the Legislative Assembly held at Simla on the 29th September, 1932, along with the correspondence that has so far taken place between Government and the Jumma Masjid Committee during the year?

The Honourable Mr. H. G. Haig: A copy of the agreement was laid on the Table on the 30th September. As regards the second part of the question, I would refer the Honourable Member to the reply given by me to Mr. M. Maswood Ahmad's starred question No. 1214.

CARRYING OF LETTERS AND PARCELS AT CHEAPER RATES BY PRIVATE AGENCIES IN THE BOMBAY PRESIDENCY.

195. **Khan Bahadur Haji Wajihuddin:** Is it a fact that some private agencies in the Presidency of Bombay have undertaken to carry letters and parcels at much cheaper rates than the postal rates resulting in loss to the postal revenue and, if so, do Government propose to consider the advisability of bringing down the postal rates to the pre-war level? If not, why not?

The Honourable Sir Frank Noyce: It is a fact that certain firms and individuals in the Bombay Presidency were carrying letters and parcels

from one station to another. Neither the reason for this undertaking nor the rates charged are known to Government. The action of these persons and firms has resulted in a loss of postal revenue. The Government do not propose at present to consider the question of bringing down the postal rates to the pre-war level, as such a reduction would result in very serious loss to the Department.

HOURS OF RECEIPT AND DESPATCH OF TELEGRAMS AT MOTIPUR IN THE DISTRICT OF MUZAFFARPUR.

196. **Maulvi Muhammad Shafee Daoodi:** (a) Are Government aware that the hours of receipt and despatch of telegrams at Motipur in the district of Muzaffarpur are very short and inconvenient, these being only from 11 A.M. to 5 P.M.?

(b) Are Government aware that Motipur is a place of considerable business importance in the locality?

(c) Are Government aware that a very big sugar factory is also going to be erected at Motipur and that arrangements for the same are in rapid progress?

(d) Are Government aware that the promoters of the sugar factory and other businessmen at Motipur are put to a lot of inconvenience and suffer a great loss in despatching and receiving their telegrams, both inland and foreign, on account of the shortness of the time allowed for the same?

(e) Are Government prepared to take steps to change the hours of receipt and despatch of telegrams at Motipur as from 8 A.M. to 8 P.M.?

Mr. T. Ryan: (a), (b) and (d). The working hours of the Motipur Post and Telegraph office are not as stated by the Honourable Member. They are from 7 A.M. to 8 A.M. and from 11 A.M. to 5 P.M. The Postmaster-General reports that the traffic is very small, that he has received no complaints, and that there appears to be no necessity to extend the working hours.

(c) and (e). The matter is within the competence of the Postmaster-General, Bihar and Orissa Circle, to whom a copy of the question is being sent. If the establishment of the factory results in such an increase of telegraph traffic as justifies it, the working hours will no doubt be extended.

STATEMENTS LAID ON THE TABLE.

Mr. T. Ryan (Director General of Posts and Telegraphs): Sir, I lay on the table the information promised in reply to starred question No. 400, asked by Mr. N. M. Joshi, on the 19th September, 1932.

RAILWAY MAIL SERVICE TRAINING CLASS AT BOMBAY.

*400. (a) Yes, from the 10th September, 1930.

(b) The 1st February, 1932.

(c) The reply to the first part is in the affirmative. As regards the second part such retransfers were not considered desirable owing to the cost involved, the inconvenience to the men themselves, and the dislocation of work which would have resulted.

(d) The training class was not reopened as a measure of economy but to meet the administrative needs of the department.

Mr. G. R. F. Tottenham (Army Secretary): Sir, I lay on the table the information promised in reply to starred question No. 360, asked by Mr. A. Das, on the 16th September, 1932.

AERODROME AT SITAPUR.

*360. (a), (b) and (c). There is no record of any expenditure on the acquisition of land or the preparation of a landing ground at Sitapur.

(d) The following expenditure was incurred in 1925-26 on account of alterations to the barracks in Sitapur to make them suitable for the accommodation of Mechanical Transport:

	Rs.
Provision of accommodation	29,950
Conversion of barracks into motor garages	9,800
Construction of approach roads and culverts	4,200
Total	43,950

Mr. P. R. Rau (Financial Commissioner, Railways): Sir, I lay on the table: (i) the information promised in reply to unstarred questions Nos. 61, 62 and 63 asked by Mr. K. C. Neogy on the 27th September, 1932; (ii) the information promised in reply to starred questions Nos. 645 and 650 asked by Mr. K. P. Thampan on the 22nd September, 1932; (iii) the information promised in reply to unstarred question No. 128, asked by Sir Zulfikar Ali Khan on the 27th September, 1932; (iv) the information promised in reply to unstarred question No. 71, asked by Mr. N. M. Joshi on the 27th September, 1932; (v) the information promised in reply to parts (d) and (e) of starred question No. 314 asked by Mr. M. Maswood Ahmad on the 16th September, 1932; (vi) the information promised in reply to unstarred question No. 142, asked by Mr. K. C. Neogy on the 28th September, 1932; (vii) the information promised in reply to starred question No. 602 asked by Mr. A. H. Ghuznavi on the 22nd September, 1932; and (viii) the information promised in reply to unstarred question No. 143 asked by Mr. K. C. Neogy on the 28th September, 1932.

EXPENDITURE ON THE EDUCATION OF THE CHILDREN OF EUROPEAN, ANGLO-INDIAN AND INDIAN EMPLOYEES OF STATE RAILWAYS.

61. The figures so far as State-managed railways are concerned are as follows:

- (1) Rs. 6,53,239,
- (2) Rs. 1,78,243.

EXPENDITURE BY THE EAST INDIAN RAILWAY ON CERTAIN RAILWAY SCHOOLS.

62. (1) Rs. 1,62,847,
- (2) Rs. 54,235,
- (3) Rs. 75,363.

AMOUNT SPENT BY THE EAST INDIAN RAILWAY ON THE EDUCATIONAL ASSISTANCE OF EUROPEAN, ANGLO-INDIAN AND INDIAN EMPLOYEES.

63. (1) Rs. 39,885,
- (2) Rs. 2,460.

ALLEGED KICKING OFF OF A MILK POT BY AN ANGLO-INDIAN TRAFFIC INSPECTOR ON A CERTAIN PLATFORM.

*645. (a) Yes.

(b) and (c). The Agent, Madras and Southern Mahratta Railway, reports that the Station Master was transferred in the interests of smooth working. The Traffic Inspector has been instructed by the Railway Administration to vindicate his character in a Court of Law. From an enquiry it has been found that the pot was not kicked over. The milk, exposed for sale, was poured out as it was both watery and sour and contrary to the agreement entered into between the Railway Company and the platform contractor.

OLD THIRD CLASS CARRIAGES USED AS QUARTERS FOR STATION MASTERS ON THE MADRAS AND SOUTHERN MAHRATTA RAILWAY.

*650. (a) Yes.

(b) The stations mentioned are flag stations and the staff are accommodated in carriage bodies which are kept in a good state of repair.

(c) Yerrampalli from September, 1927.

Manumaka from August, 1925.

Kadavakuduru from October, 1928.

				Coaching.	Goods.
				Rs.	Rs.
(d) Yerrampalli	..	..	1928-29	5,211	2,487
			1929-30	4,569	455
			1930-31	4,684	1,734
Manumaka	..	..	1925-26	1,681	1,298
			1926-27	3,585	1,675
			1927-28	4,210	282
Kadavakuduru	..	..	1928-29	8,439	172
			1929-30	6,339	68
			1930-31	5,141	81
			1929-30	11,199	25,945
			1930-31*	10,561	66,912

(e) On the 8th July, 1926, as the result of a quarrel the station sweeper at Manumaka stabbed the station clerk several times which resulted in the latter's death.

APPOINTMENT OF MUSLIMS IN THE ELECTRICAL BRANCH OF THE NORTH WESTERN RAILWAY.

123. (a) In the categories mentioned there is only one Muslim who is employed as Foreman in the Electrical Branch of the railway.

(b) So far officers are concerned, recruitment is made by the Railway Board and a proportion of the vacancies filled by direct recruitment is reserved for the redress of marked communal inequalities. In regard to the recruitment to subordinate grades of the Electrical and other branches the Agent reports that the Railway Board's instructions regarding the redress of such inequalities are strictly observed.

PROMOTION OF AN ANGLO-INDIAN SUBORDINATE ON THE GREAT INDIAN PENINSULA RAILWAY.

71. (a) The Indian Officer referred to is presumably Mr. P. Kedarnath who was officiating as Assistant Traffic Manager off and on from the 27th December, 1923, and proceeded on 18 months' combined leave from the 15th August, 1931, on attaining the age-limit. He was not considered to have rendered such valuable service as to warrant a recommendation for promotion to the official grade on the eve of retirement. The Anglo-Indian officer confirmed in the Lower Gazetted Service while on extension had rendered 8 years' continuous officiating service of a valuable character. He had been recommended for confirmation about a year and a half before he was confirmed but orders were delayed pending the reorganization of the State-Railway cadres.

(b) 5 years, 2 months and 3 days.

CREATION OF POSTS OF JOURNEYMEN IN THE MECHANICAL WORKSHOP, NORTH WESTERN RAILWAY, MOGHALPURA.

*314. (d) and (e). The Agent explains that appointments of journeymen are ordinarily made from among Apprentices trained on the North Western Railway and occasionally by the promotion of qualified daily rated workmen and that vacancies are only advertised if qualified apprentices or daily rated workmen are not available. He states that, as in this instance, they were available the vacancies were not advertised. The Agent has been asked to consider whether the omission to advertise in such instances prejudices any qualified apprentices who have not secured employment on railways and, if so, to take measures to remove the defect.

CARRIAGE OF GOVERNMENT AND RAILWAY MATERIALS BY INDIAN SHIPPING COMPANIES.

142. (g) Yes.

(b) The Burma Railways did not intimate that a certain freight rate only would be suitable for the carriage of scrap rails from Rangoon to Calcutta. The shipping agents were merely asked to quote their lowest sea freight charge.

(c) and (d). The quotation of the British India Steam Navigation Company at Rs. 7 per ton was accepted on the 2nd of August, 1932. The Scindia Steam Navigation Company offered Rs. 6 per ton for the carriage of these scrap rails on the 9th August, 1932, having previously quoted Rs. 18 per ton on the 1st August, 1932.

(e) The quotations differed too widely for the question of preference to be considered.

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PURCHASE OF COAL AT HIGHER RATES FOR THE RAILWAYS.

*602. (a) and (c). Certain quantities of coal were taken delivery in arrears against contracts entered into by the East Indian Railway when it was under Company-management on the advice of the railway's legal advisers in order to discharge obligations under contracts. The market prices of these coals were lower than the prices at which the arrears were paid for. The circumstances of the purchase are as follows:

Coal supplies to the East Indian Railway from 1921—25 fell badly into arrears. This was not due entirely to negligence on the part of the contracting companies for the East Indian Railway was, at that period, not always in a position to supply in full the wagons indented for. By the beginning of the year 1925 the arrears of coal had accumulated to a very large extent. Neither the purchasers nor the sellers had in the meantime pressed vigorously for the supply of wagons because about that time the coal contractors found that with the rising prices of coal they were in a position to sell more profitably in other markets and the Railway at that time was not short of coal stocks and found they were getting better profits by utilising their existing wagon stock for the carriage of better paying merchandise.

When the price of coal declined, certain coal companies began to press for the arrears of their contracts to be delivered and as the Railway Administration accepted partial responsibility for the contracts falling into arrears (owing to their failure to supply wagons), they arranged to take the arrears from those companies who requested the Railway to do so under the conditions of the existing contracts.

(b) Separate figures for each colliery are not available.

CARRIAGE OF GOVERNMENT AND RAILWAY MATERIALS BY INDIAN SHIPPING COMPANIES.

143. (a) The answer to the first part of this question is in the affirmative. The answer to the second part of the question is also in the affirmative but the acceptance of the quotation of the British India Steam Navigation Company had been accepted prior to the receipt of the revised quotation from the Scindia Steam Navigation Company.

(b) A time interval must of necessity elapse between acceptance of the quotation and the booking of cargo.

(c) As I have already explained, the difference between the two quotations was so wide that no question of preference to Indian shipping companies could therefore arise.

THE INDIAN MERCHANT SHIPPING (AMENDMENT) BILL.

PRESENTATION OF THE REPORT OF THE SELECT COMMITTEE.

Mr. G. S. Bajpai (Secretary, Department of Education, Health and Lands): Sir, I beg to present the report of the Select Committee on the Bill further to amend the Indian Merchant Shipping Act, 1923, for certain purposes.

THE BENGAL SUPPRESSION OF TERRORIST OUTRAGES (SUPPLEMENTARY) BILL.

The Honourable Mr. H. G. Haig (Home Member): Sir, I rise to move:

"That the Bill to supplement the Bengal Suppression of Terrorist Outrages Act, 1932, be taken into consideration."

The Bengal terrorist movement is very present to our minds. It was less than two months ago, that this House in Simla expressed its feelings of horror at the latest outrages which had been perpetrated by members of the Bengal terrorist party. Those outrages, as Honourable Members will remember, consisted of a senseless and cowardly attack on a harmless social gathering at Pahartali near Chittagong and a determined attack, fortunately for the second time unsuccessful, to assassinate the Editor of the leading paper in Calcutta, because apparently that paper had expressed views which were displeasing to the terrorist. I said, Sir, at the time when the House was considering the Motion for Adjournment last Session, that we should be inviting them in November to pass certain supplementary legislation in pursuance of an Act that had recently been passed by the Bengal Legislative Council. I said that I trusted those proposals, when put forward, would receive the full support of the House. I am confident, Sir, that that anticipation will be fulfilled. The Bengal

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Act, which it is the purpose of our proposals to supplement, was passed by the Bengal Legislative Council on the 6th September last. It replaced certain powers which have been conferred by a special Bengal Ordinance which expires on the 27th of this month and other powers derived from the main Special Powers Ordinance which expires at the end of the year.

As Honourable Members are aware, the Bengal Government already enjoy certain special powers conferred by the Bengal Criminal Law Amendment Act for dealing with this movement. But, in spite of the existence of those powers, the Bengal Legislative Council, consisting of those who live in the very midst of this movement, who realise from day to day what it means in a way perhaps that it is a little difficult for us here to realise, that Council passed that Bill which is known as the Bengal Suppression of Terrorist Outrages Act, by a large majority, I think I am right in saying, a majority of 58 to 12. That, Sir, will, I think, convey to the Members of this House the importance that is attached by those who live in these conditions to the additional powers that the recent Bengal Act confers. The object of the legislation, which I am inviting the House to take into consideration this morning, is merely to supplement in certain special particulars the powers which the Bengal Legislative Council have already declared as necessary for them to possess.

Mr. K. Ahmed (Rajshahi Division: Muhammadan Rural): Why, Sir, did half the number of Members run away without voting?

The Honourable Mr. H. G. Haig: Now, Sir, let me, in the first place, explain very briefly the nature of the powers contained in the Bengal Act. In the first place, there are certain emergency powers of an executive character and those powers enable certain officers, executive officers, to pass executive orders in certain special circumstances. I should like the House to realise that those powers are not conferred automatically on officers throughout Bengal, that, in fact, they are confined rigidly to particular areas where the circumstances demand this exceptional treatment. In fact, those powers have only been applied in the Chittagong district, the conditions of which, as Honourable Members are fully aware, are quite exceptional. That is the first class of powers contained in the Bengal Act, and these are emergency powers for use in a particular area where the terrorist movement has got unusual hold. The second class of powers conferred by the Act deal with the establishment of Courts of Special Magistrates. These apply to the trial of specifically terrorist offences throughout Bengal. They are closely analogous to the powers conferred by section 80 of the Criminal Procedure Code. In other words, the Special Magistrates, instead of being limited to the normal sentence of two years imprisonment, are authorised to give sentences up to seven years imprisonment. The justification for that is that in dealing with these terrorist offences, it is of the utmost importance that trial should be speedy, that there should not be the delays which unfortunately occur and, particularly in connection with these terrorist trials, we see so often taking place in other parts of India. The object of granting special powers of this kind to Special Magistrates is that they should be able to take up and dispose promptly of, what one might call, the lesser offences committed in pursuit of the terrorist movement. It is no substitute for the main Courts, the Special Tribunals, which deal with the most serious offences, but the Bengal

Government find these Courts useful for dealing with less serious offences under the Arms Act or political dacoities and cases of that kind in which murder has not been committed and capital sentences are not involved.

Now, Sir, the provisions of our Bill, which is a short one and a simple one and which, I hope, will be passed by this House without any elaborate procedure, are confined to three points. The first is in regard to appeals. The Bengal Act provides that there shall be an appeal in certain cases to the Court of Session from the judgments of the Special Magistrates. But the Bengal Government are not able to provide under their own powers for an appeal to the High Court. They cannot, therefore, provide for appeals in the case of trials held in the Presidency-town of Calcutta, and they cannot provide for appeals which would ordinarily go to a Court higher than that of the Court of Session, that is to say, cases in which a sentence of more than four years' imprisonment has been imposed. The first provision, therefore, of this Bill, clause 3, secures that in those cases in which an appeal does not go to the Court of Session, an appeal should go to the High Court. That is a provision which is not likely to meet with opposition in this House. The next provision, clause 4, extends the effect of section 19 of the local Act. The Bengal Council, in passing their Act, felt it necessary to provide that orders made under the emergency powers which are conferred by the first part of the Act should not be called in question by any Court, and I think it is obvious that if these powers are to be effective, they cannot be made subject to injunctions of the Courts. We propose that just as the Bengal Act has removed the jurisdiction of the lower Courts, so we should remove the jurisdiction in this matter of the High Court. The last provision is interference of Courts with the proceedings in the Courts of the Special Magistrates; in other words, the High Court will not have power to entertain applications in revision. The reason for this provision is obvious from what I have already said to the House. The object of establishing these Courts of Special Magistrates is to provide a speedy form of trial proceedings to make applications in revision to the High Court,—still which would serve their purposes of delay,—if such a procedure is permitted, then the object of speedy trial is defeated. At the same time I would like once more to emphasise that in every case an appeal from the sentence of the Special Magistrates is granted and, therefore, there should be no fear that any substantial injustice will be done.

Now, Sir, those are the provisions of this simple Bill. It is perhaps unnecessary, in view of the facts to which I called attention at the beginning of my speech, to enlarge on the terrorist movement. It is one that, with its callous disregard for human life, should not be able to command the sympathy of any right-minded person. The lurking assassin who shoots a defenceless person in the back or who throws a bomb into an unsuspecting and harmless gathering can be no subject of pride to any country. The contribution of the terrorists to the life of this country is the promotion of race hatred, the organisation of crime of a peculiarly repellent and galling description and the attempt to intimidate public servants and any public men that may oppose them, by threat of murder. There are, however, those who suggest that the terrorists are simply more than usually enthusiastic reformers, that their aims are the same as those of the

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nationalists, that they merely want Swaraj and that they will then settle down into ordinary law-abiding citizens, discarding the methods of political murder. Well, Sir, I know no facts which bear out that view. Even if their aims are precisely the same as those of the nationalists, history suggests that they would not discard their methods when their aims have been attained. They have based themselves largely on Irish models; let us take some warning by Irish experience. Only yesterday I saw a telegram in which one of the *ex*-Ministers at Dublin is stated to have protested strongly in the Dail against threats of murdering him and his colleagues if they opposed Government, specially referring to the speech of a certain editor who said that while they had fists, boots and guns, if necessary, they would not allow free speech to traitors. That, Sir, is the authentic mentality of the terrorists. Those who do not agree with them are traitors and must, if necessary, be murdered. But, Sir, the aims of the terrorists, according to my information, are widening. Even if it could have been maintained some years ago that their aim was merely the liberation of the country on the lines contemplated by more respectable bodies, I do not think that can be maintained now. I have studied a number of leaflets which have been issued by terrorist organisations within the last few months, and they are very instructive. They show that they are beginning to turn for their model from Ireland to Russia. If the House will bear with me, I should like to read out some quotations from these leaflets. The first is headed "The Cult of Revolution" and is issued by what calls itself "The Socialist Republican Party". In case any one suggests that that is not a terrorist organisation, I should explain, in the first place, that they begin the leaflet by a triumphant reference to the raid on the European Club at Chittagong and the attack on the life of Sir Alfred Watson; and then they explain what they are fighting for:

"We claim to represent the down-trodden masses. The masses are eager for revolution."

Their programme is that:

"Organizations should work among the masses with the object of preparing them for armed insurrection."

And what is the object to be attained? They say:

"We stand for the establishment of socialism and the abolition of exploitation of man by man."

And, finally, they refer to the Socialist Republican form of Government for which they are fighting. Now, that puts in a very elementary way the aims for which these atrocious crimes are being committed.

Mr. B. Das (Orissa Division: Non-Muhammadian): Is it not an old document of 1929?

The Honourable Mr. H. G. Haig: This is quite a new document, because, as I say, it refers to the raid on the European Club at Chittagong and the attack on the life of Sir Alfred Watson.

Mr. B. Das: Thank you.

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The Honourable Mr. H. G. Haig: The next leaflet also refers to Chittagong affairs and makes an appeal to rebels and terrorists. Then it goes on to make some very interesting references to the Congress. It has no very high opinion of the Congress:

"The Congress wants capitalism through mutual arrangements, and we want to establish a Soviet through blood and revolution."

Then follows a violent denunciation of the policy of the Congress when Mr. Gandhi was at the Round Table Conference and describes the Congress as being a party of the rich

An Honourable Member: What is the harm in releasing Mr. Gandhi at this juncture?

The Honourable Mr. H. G. Haig: Then I come to another Bengali leaflet. Here, again, it is inspired by hostility to the aims of the Congress:

"We cannot deny this fact,"

—it says,—

"that behind all the doings of the Congress there lies the mentality of the tradesman. They want reforms,"

this is a charge against them—

"they want wider chances to satisfy their self-interest."

And then they go on in true terrorist style:

"The traitors of the country may sell the self-respect on any plea to the English. After attainment of freedom, their efforts will be to capture the reins of Government."

This is their attack on anything like constitutional progress:

"If these people,"

—that is to say, the traitors of the country, who are prepared to accept constitutional means,—

"if these people are not subdued with an iron hand, then all the efforts of the nation will turn into nothing."

And, finally, they end by saying that their object is to establish a revolutionary Government by a country-wide armed revolution and end up with blood-thirsty threats, which are not after all idle threats, against all those who oppose them.

There is much more, Sir. I have other leaflets which reiterate exactly the same point of view. The object is not anything like constitutional reform. They are inspired by the keenest opposition to any party that is prepared to accept ordinary constitutional reform or which bases itself on the present social organization.

There is one more leaflet to which I should just like to refer to explain what precisely they have in mind as the future of India:

"In the reign of the socialist form of Government,"

—and this, Sir, is not an ordinary Communist Association,—but it is an Association which describes itself as Bhagat Singh's Association—significant words—

"in the reign of the socialist form of Government, the land of the country will be divided in equal shares to all persons over which the person concerned will exercise full control"

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions: Muhammadan Rural): I would welcome it.

The Honourable Mr. H. G. Haig: I hope the Honourable Member will welcome the next sentence too:

"Moreover, tenants will have to pay no taxes or any sort of *begar* which is common in these days."

And, now, Sir, for my friends, capitalists:

"Mazdoors will have every right over factories and mills from which at the present moment the capitalists draw much profit. Mazdoors will get full advantage of their income and they will not be treated like beasts as at present. Representatives of Mazdoors will look after the arrangements and management of all departments such as Railway, Canal and sea routes."

Well, Sir, those are, in fact, the aims which are coming more and more to the front in this terrorist movement, and I would ask the House to reflect for a moment not only on the abominable methods of these men, but on the disastrous policy that they are attempting to pursue by those methods; and, possibly, Honourable Members, some of whom show much interest in the welfare of terrorists, may reflect that there is little gratitude in life when they hear what the terrorists think of them. These men, Sir, are the enemies of the country. They are a menace to all ordered constitutional progress in Bengal, and those who, like Honourable Members opposite, believe in constitutional progress and look forward to the orderly development of democratic institutions, should realise that it is as much to their interest as to ours, that it is as vital to the future, which is theirs, as to the present which is ours, that this movement should be extirpated. In order to extirpate it, effort is required from many directions. There is a whole chain of executive and judicial processes, of which the provisions of this Bill represent a small, though essential, link. Effort, I admit, is also required in other directions,—to stop recruitment of terrorists, by improving public opinion and by endeavouring to cure some of the conditions—economic and educational,—which have fostered the growth of the movement. From all directions pressure must be maintained steadily and relentlessly and success will be ensured. I do appeal very earnestly to the House to co-operate with us in this matter and to pass the measure which I have placed before them.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Motion moved:

"That the Bill to supplement the Bengal Suppression of Terrorist Outrages Act, 1932, be taken into consideration."

Sir Hari Singh Gour (Central Provinces Hindi Divisions: Non-Muhammadan): I want to raise a point of order, and I am very sorry I have to do that. I am not at all speaking at the present moment on the merits of the Bill. The point of order that I wish to raise is as follows. Under clause 5 of this Bill, it is laid down:

"Notwithstanding the provisions of the Code, or of any other law for the time being in force, or of anything having the force of law by whatsoever authority made or done, there shall, save as provided in the local Act as supplemented by this Act, be no appeal from any order or sentence passed by a Special Magistrate under the local Act and save as aforesaid no Court shall have authority to revise such order or sentence, or to transfer any case from any such Magistrate, or to make any order under section 491 of the Code, or have any jurisdiction of any kind in respect of any proceedings of any such Magistrate, or of any direction made under Chapter II of the local Act."

The intention of this clause is to take away the revisional power of the High Courts in matters dealt with under the local Act supplemented by this Act. Honourable Members will find, and you will find that a similar question was the subject of a prolonged debate and decision by this House as far back as 1923. In 1922, when we sat on the Select Committee to revise the Code of Criminal Procedure, we found ourselves confronted with section 435 of the Code which laid down that the High Courts had no power of revision over orders passed under sections 144 and 145 of the Criminal Procedure Code, namely, orders relating to urgency and to immoveable property. But though that was the state of the statutory law as enacted by the Indian Legislature, the Indian High Courts held that they were not fettered by the provisions of section 435 as they had jurisdiction to revise orders passed by any subordinate Courts or Magistrates under the Parliamentary Statute, section 107 of the Government of India Act. Therefore, they exercised their jurisdiction despite the restrictive provisions of section 435 which, before 1923, had taken away the revisional powers of the High Courts. So much for the powers of the chartered High Courts under section 107 of the Government of India Act. There remains the non-chartered High Courts,—Chief Courts and Courts of Judicial Commissioners whose powers are not the subject of protection under section 107 of the Government of India Act. They, therefore, were fettered in the exercise of their revisional jurisdiction by the provisions of section 435, the result being a startling anomaly, namely, that while in provinces subject to the chartered High Courts the High Courts had jurisdiction, in provinces not so subject to the chartered High Courts the High Court had no jurisdiction in a similar case. That was the anomaly that we removed in 1923. I find in this annotated edition credit is given to me for having drawn the attention of the Legislature, but I do not take that credit at all. I wish to repeat what is quoted here as a précis of the arguments which prevailed with the Legislature. It is stated here:

"The grounds for the omission of sub-section (3) have been thus stated by Dr. Cour: 'The intention of this amendment is to preserve to the High Courts revisional jurisdiction in cases disposed of under sections 144, 145, etc. Honourable Members are aware that not only the chartered High Courts, but all the non-chartered High Courts, such as the Chief Courts and the Courts of the Judicial Commissioners do, under various local Acts, possess a statutory power of revision in such cases. . . . Now, Sir, I ask the House a simple question. If it is a fact that all the Courts, chartered and non-chartered, possess this power, then I say clause (3) of section 435 is superfluous, nay misleading. If it is a fact that they do not possess that power, in that case I ask the House to endorse my opinion that this power is both salutary and necessary. It will not be denied that this power has in fact been exercised under section 107 of the Government of India Act and other local Acts. If so, this clause conflicts with the express provisions of section 107 of the Government of India Act.'"

And this is the view which the House endorsed.

Now, the short point which I want to make here is that the power of superintendence vested in the chartered High Court is a power over which this House has no jurisdiction. It is a power which this House cannot take away by any legislation. That power has been defined by the High Courts to be the power of revision over all Courts subordinate to the chartered High Courts. The only effect, therefore, of the enactment of clause 5 would be to take away the power of superintendence which has been vested in non-chartered High Courts by the Indian Legislature, and it would reproduce the anomaly which existed in 1922, namely, that

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against the same order the chartered High Court has jurisdiction, has power of revision under section 107 of the Government of India Act, whereas a non-chartered High Court will have no such jurisdiction at all. That is the anomaly that was created by the Act prior to 1923, and that anomaly will be reproduced if this clause 5 is enacted into law. As regards your power, I wish to recall another fact.

In 1923, if I mistake not, I introduced in this House a Bill for the establishment of a Supreme High Court in India, and on the objection raised by the other side that it would be *ultra vires* of the Indian Legislature to enact such a measure, your predecessor, Sir Frederick Whyte, decided that such a power did not exist in the Indian Legislature and he would not permit me to move my Bill. I ask you, Sir, to exercise the same power. If clause 5 is enacted into law, it would create a curious anomaly.

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): It applies only to Bengal.

Sir Hari Singh Gour: My friend on the left points out that this law is only applicable to Bengal. It is so, but the point that I am making at the present moment is that if we enact clause 5 and take away the revisional jurisdiction of the High Court, as you will see that it does take away the revisional jurisdiction of the High Court, it would conflict with the revisional jurisdiction given to the Bengal High Court under section 107 of the Government of India Act. I may point out that I have not brought this objection upon this House by surprise. I have conveyed my doubts to one of the Honourable Members on the other side and I am told that it is not the intention of Government to take away the power of the High Court given to it by section 107 of the Government of India Act. If that be the case, if it is not the intention of the Government to take away the power of the High Court given to it by the Parliamentary Statute and the High Court has held that that power carries with it the power of revision, then I cannot understand why clause 5 has been enacted at all and what is the direct purpose with which this clause 5 has been enacted. That, I submit, is a point upon which the Honourable the occupants of the Treasury Benches may be pleased to enlighten you, Sir. For the present, I think the enactment of this clause 5, *pari passu* with the existence of section 107, would create a great deal of confusion and I think it is up to this Legislature not to create a confusion of this character and to do what might conceivably be held, as indeed it has been held by the Calcutta High Court under a previous Statute that no act of the Indian Legislature can derogate from the power which Parliament has given to the chartered High Court, the power of superintendence which carries with it the power of revision and more specifically you will find, Sir, that they have the power to direct the transfer of any suit or appeal from any Court to any other Court of equal or superior jurisdiction. They can direct that the appeal shall lie to one Court or the other Court and this power they have been exercising ever since the establishment of the chartered High Courts. Therefore, I submit, that you should rule that clause 5 is *ultra vires* and, in any case, if the Government wish to safeguard the provisions of section 107 of the Government of India Act, they must have a clause inserted to that effect.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Chair should like, in the first instance, to ask the Honourable Member whether it would not be better if he raised the point of order when clause 5 came before the House. When the Honourable Member got up to raise the point of order at this stage, my impression was that he was contending that the whole Bill was *ultra vires* of the Legislature. If that had been his contention, then the time chosen by him for raising the point of order was appropriate, but he does not do so. His contention is that clause 5 of the Bill is *ultra vires*. Is that so?

Sir Hari Singh Gour: Yes, Sir.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Then the proper time to raise the question would be when clause 5 is under consideration.

Mr. B. R. Puri (West Punjab: Non-Muhammadan): Clause 4 would also be open to the same objection.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The objection to each clause should be taken when that clause is under the consideration of the House. At present the Chair is quite prepared to consider any point of order contending that the whole Bill is *ultra vires* of this Legislature.

Mr. B. R. Puri: Practically it would be. So far as clauses 1, 2 and 3 are concerned, there is practically no difference of opinion. That only leaves clauses 4 and 5 and they are open to identical objection and criticism.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order. When the Chair rose to deal with the point of order raised by the Leader of the Nationalist Party, it was restricted to clause 5 only and, that being so, the Chair wishes to point out that any point of order raised in regard to any clause of a Bill as being *ultra vires*, the proper time for doing so is when that clause is under the consideration of the House. If the Honourable Member has anything to urge in this connection, the Chair will be glad to hear him.

Sir Hari Singh Gour: The reason why I have raised this point of order at this stage is this. The Honourable the Home Member wants the Bill to be taken into consideration and I want to know from you, Sir, as to how much of the Bill is to be taken into consideration, the whole of it or only two-thirds, because if one-third is ruled out as out of order, we are left with nothing but two-thirds and, on that point, I shall advise my friends as to what they should do. That is the reason why I have raised this question. The fact is that clauses 4 and 5 are an integral part of the whole Bill.

Mr. H. P. Mody (Bombay Millowners' Association: Indian Commerce): Might I submit, with great respect, with reference to your ruling that the proper time for raising this point of order would be when clause 5 is under consideration, that there will be very considerable practical inconvenience in the course which you have

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laid down? Clause 5 goes to the fundamentals of the whole Bill. A great deal of the discussion, practically, the whole discussion will centre round this clause, and it may turn out to be wholly unnecessary in the end. Therefore, Sir, if for nothing else, for the sake of convenience and the proper conduct of the debate, it is very essential that the Chair should give its ruling now on this clause. Otherwise what will happen will be that Members in criticising the Bill will merely fasten upon this clause, and it may ultimately be that the whole time and energy of the House has been wasted upon a clause which is not in order.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Chair recognises the force of what the Honourable Member has urged, and if it is the general wish that the point of order raised should be decided at this stage, the Chair will raise no objection.

The Honourable Sir Brojendra Mitter (Law Member): I have no objection.

Mr. President: A point of order has been raised and if any one Honourable Member wishes to speak on it, I will allow him to do so.

The Honourable Sir Brojendra Mitter: This point of order is nothing new. It was considered in the Bombay High Court in a recent case in connection with the Special Powers Ordinance, section 52. That section is in the same terms as clause 5 of the present Bill and runs thus:

"Notwithstanding the provisions of the Code, or of any other law for the time being in force, or of anything having the force of law by whatsoever authority made or done, there shall, save as provided by this Ordinance, be no appeal from any order or sentence of a Court constituted under this Ordinance and, save as aforesaid, no Court shall have authority to revise such order or sentence, or to transfer any case from any such Court, or to make any order under section 491 of the Code or have any jurisdiction of any kind in respect of any proceedings of any such Court."

It was argued that section 52 of the Ordinance was *ultra vires*, and the Chief Justice of Bombay delivered a considered judgment on this point. What he said was this that that section was not *ultra vires*; but that that section did not affect the power of superintendence which the High Court had under section 107 of the Government of India Act. Sir, the High Courts derive their powers from three sources. The first is the Criminal Procedure Code, the second is the Letters Patent of the High Court, and the third is section 107 of the Government of India Act. There is no question that in so far as the Criminal Procedure Code is concerned, this House has the authority to alter the law. Section 65 of the Government of India Act gives this House the power to alter any law passed by any Indian Legislature. Therefore, in so far as clause 5 of the Bill seeks to alter the Criminal Procedure Code, there is no question of *ultra vires*. The Indian Legislature can also alter the Letters Patent. The Letters Patent themselves give the power. Therefore, so far as the powers given to the High Court by the Letters Patent are concerned, they can be altered by this House.

Now, there are these two sources and there is a third source, namely, section 107 of the Government of India Act. Section 107 of the Government of India Act begins by saying:

"Each of the High Courts has superintendence over all Courts for the time being subject to its appellate jurisdiction, and may do any of the following things . . ."

and what the Chief Justice has held is this, that since:

"We have got superintendence over a subordinate Court, that superintendence is not restricted merely to administrative matters but also extends to judicial matters and, therefore, by virtue of that power the High Court could still revise the decisions of lower Courts."

But the point is this. He decided against the argument that section 52 of the Ordinance was *ultra vires*: he says in effect that it is not *ultra vires* but *intra vires* in so far as the Criminal Procedure Code is concerned and in so far as the Letters Patent are concerned, but that that section does not affect powers given under section 107 of the Government of India Act. In this connection may I draw your attention to section 84 of the Government of India Act,—which says this:

"A law made by any authority in British India shall not be deemed invalid solely on account of any one or more of the following reasons . . ."

The relevant sub-clause is this:

"A law made by any authority in British India and repugnant to any provision of this or any other Act of Parliament shall, to the extent of that repugnancy, but not otherwise, be void."

Therefore, it comes to this that if clause 5 purported to affect the powers of the High Court under section 107 of the Government of India Act, to that extent it would be void, that is, to the extent of the repugnancy but not otherwise. Otherwise it will be good. That is to say, that clause will be good in so far as the powers given by the Criminal Procedure Code are concerned, and also in so far as the powers given by the Letters Patent are concerned.

"Apart from revision, clause 5 deals with section 491. Rights under Section 491 are not given by any Parliamentary Statute, but are given by the Criminal Procedure Code. Clause 5 will be good so far as that is concerned. Whatever powers are given by the Criminal Procedure Code or by the Letters Patent can be altered and they will be altered. It is not our contention that we have the power to affect section 107, or that clause 5 purports to affect section 107."

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): Well, if the powers are the same, then it will be nugatory?

The Honourable Sir Brojendra Mitter: I may inform the House that this point also arose in the Calcutta High Court, but it was not necessary to decide the question. Incidentally it was held that the clause in the Ordinance was not *ultra vires* but that the High Court's powers of superintendence were not taken away and could not be taken away by the Indian Legislature. That being so, my contention is this that clause 5 is *intra vires* of the Legislature,—but what its effect will be is a quite different matter. The effect will be that the powers given to High Courts by any

authority other than Parliament will be altered, but the powers of superintendence under section 107 of the Act will remain unaffected. It will apply to what is legally possible and not to what is forbidden.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Certain doubts have occurred to the Chair in view of what has fallen from the Honourable the Law Member, and the Chair wishes to put certain questions to him in order to appreciate the significance of what he has stated with regard to the Legislative powers of this Assembly.

1 P.M. The Honourable the Law Member said that the sources of High Court's powers were the Criminal Procedure Code, the Letters Patent and section 107 of the Government of India Act and that under section 65, this Legislature can alter the Criminal Procedure Code. He has further stated that under the Letters Patent themselves those powers can be altered. He admits that this Legislature cannot touch the powers conferred by section 107. The main point of his argument appears to be that we may pass clause 5 as it stands and if there is anything in the clause which is repugnant to section 107, it will not take effect, that it will be void, and the High Court will not act on it. It is in regard to that point that the Chair wishes to ask for information. It is perfectly true that the Bombay High Court gave a decision on the Ordinance enacted by His Excellency the Governor General. This Legislature is not responsible for what the Governor General, in exercise of his powers under the Government of India Act, may decide to do. If there happens to be points in the Ordinances which go beyond the provisions of section 107, the High Courts are entitled not to act on them. That is perfectly intelligible; but when Government want the Legislature to enact a law, it is the obvious duty of the Legislature to see that no provision is passed which is *ultra vires* of section 107. (Applause from Non-Official Benches.) The Legislature cannot be expected to enact a law without satisfying itself that it does not encroach upon the limitations which an Act of Parliament has imposed. (Applause from Non-Official Benches.) Subject to any further explanation which the Law Member may give, the Chair should like to ask whether the best course for Government would not be to frame clause 5 in such a manner as to be within the powers of this Legislature. It cannot be right to leave it to a High Court to declare that any part of legislation enacted by this House is beyond its powers and is therefore void. I do not think that this Legislature should be allowed to be put in that position. (Hear, hear.) When the point has been specifically brought to the notice of this Legislature, it is our duty to be satisfied that the powers conferred upon the High Courts by section 107, which are quite clear and mandatory, should not be entrenched upon. The portion of section 84, which was read out by the Honourable the Law Member, is perfectly clear:

"A law made by any authority in British India and repugnant to any provision of this or any other Act of Parliament shall to the extent of that repugnancy but not otherwise be void."

This provision covers a case in which a Legislature, without being conscious of doing so, may enact a law which goes beyond their authority. In that case the High Court, in dealing with the matter when brought before it, would have to declare it void; but if the point is present to the mind of the Legislature, it is, I think, the obvious duty of the Legislature to satisfy itself that they are not doing anything which is beyond

their powers. (Applause from Non-Official Benches.) As the question raised vitally affects the powers and privileges of this Assembly, I do not wish to give a ruling at once on the lines I have explained. I have purposely put my points in the way of doubts so that there may be further discussion on this important aspect of the case before a definite ruling is given by the Chair.

The Honourable Sir Brojendra Mitter: Sir, I have stated that clause 5 does not purport to affect the powers of the High Court given by section 107 of the Government of India Act. If it be necessary that that should be specifically stated, I am quite prepared to table an amendment by way of explanation that this clause does not purport to affect the powers of the High Court under section 107 of the Government of India Act.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): May I interrupt the Honourable Member just for a minute. The following words in clause 5 require to be specifically explained.

"Notwithstanding the provisions of the Code, or of any other law for the time being in force, or of anything having the force of law by whatsoever authority made or done."

That would include the authority of the Houses of Parliament. It is proposed to take away by these words not only the powers which are covered by the first two points which the Honourable Member made, but they are wide enough to cover all the powers the High Courts get under the Government of India Act from Parliament. I want the Honourable Member to explain that point.

The Honourable Sir Brojendra Mitter: As regards the distinction which you have been pleased to draw between the Ordinance and an Act of the Central Legislature, may I draw your attention to section 72 of the Government of India Act which says:

"the power of making Ordinances under this section is subject to the like restrictions as the power of the Indian Legislature to make laws."

Therefore, the restrictions imposed by section 84 of the Government of India Act apply equally well to the Ordinances as to anything done here. But I need not elaborate that point. The other point is this. Undoubtedly, the clause, as it reads, may, in the absence of section 84, draw within its ambit section 107 of the Government of India Act, but that is not the intention of the Mover of the Bill. I am quite prepared to table an amendment by way of explanation in these terms:

"This clause shall not be deemed to affect the powers of the High Court under section 107 of the Government of India Act."

Such an explanation ought to satisfy the House. That will clear up that doubt. It is an easy matter to add an explanation to the clause expressly stating that there is no intention to alter the powers given by section 107 of the Government of India Act.

Sir Abdur Rahim (Calcutta and Suburbs: Muhammadan Urban): Sir, I do not think the explanation given by the Honourable the Law Member would clear up the doubts that we are all feeling and which were so

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lucidly expressed from the Chair as regards the way this clause 5 has been drafted. If you look at the language, it will be found that it is so wide and sweeping that it brings in any law for the time being in force. The clause reads:

"Notwithstanding the provisions of the Code, or of any other law for the time being in force, or of anything having the force of law by whatsoever authority made or done no appeal from an order or sentence passed by a Special Magistrate under the local Act and save as aforesaid no Court shall have authority to revise such order or sentence or to transfer any case from any such Magistrate, or to make any order under section 491 of the Code, or have any jurisdiction of any kind in respect of any proceedings of any such Magistrate, or of any direction made under Chapter II of the local Act."

If you retain language like that, it would surely be absurd drafting to have at the same time the explanation like the one suggested. Besides merely saying it will not alter the powers of the High Court will not do, you will have to go further and say, it will not in any way affect section 107 of the Government of India Act.

The Honourable Sir Brojendra Mitter: Is not that a matter of drafting?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): I am going to suggest a way out after Sir Abdur Rahim finishes his speech.

Sir Abdur Rahim: There is also a point of substance I should like to know from the Honourable Member. If he is going to retain these drastic provisions, what will be left of the powers of superintendence. Can he tell us in definite language as to what will be the powers of superintendence left in the High Court. If he could define that, then, we shall be in a better position to understand that notwithstanding clause 5, if properly drafted, there will still be the powers of superintendence left in the High Court absolutely intact.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): In view of what has fallen from the Honourable the Law Member, the Chair takes it that he agrees that the wording in the Bill, as introduced, has the effect of encroaching upon the powers which are given under section 107 of the Government of India Act. On that admission, the Chair wishes to suggest that it cannot be beyond the drafting capacity of the Legal Department of the Government of India to reframe the clause in such a way as to leave no doubt to any one who reads it that it only covers the alteration in the Criminal Procedure Code and the Letters Patent, but that it does not touch in any manner whatever the powers of the High Court under section 107 of the Government of India Act. As it is Lunch time, the Chair proposes to adjourn the House, leaving it to the Honourable the Law Member to consider in what form he proposes to redraft the clause. As the clause stands at present, it does apply to section 107 of the Government of India Act and so far as it applies to that section, it is out of order. (Hear, hear.)

Sir Hari Singh Gour: Before the House adjourns for Lunch, may I make a suggestion? As you are aware, Sir, this House has appointed

a Committee of 15 Members to examine and report on the Ottawa Agreement. That Committee has been sitting from day to day and, as it is a very important Committee, I crave the indulgence of the House and your leave, Sir, that we be given an opportunity to sit on that Committee in the afternoons by adjourning the House for tomorrow and till we have concluded the labours of that Select Committee, I would equally ask your permission and the indulgence of the House that we should devote the afternoons to the transaction of the ordinary business of the House and the forenoons for doing the work on the Select Committee.

Some Honourable Members: No, no. The Select Committee should sit in the afternoons and the House on the forenoons.

Sir Hari Singh Gour: I know, Sir, there is some difference of opinion as to whether the House should sit in the forenoons or in the afternoons.

Some Honourable Members: The House should sit in the forenoons only.

Sir Hari Singh Gour: I am putting that point of view also to the Chair. The question, Sir, has not escaped your attention or mine. The only difference between forenoon sitting and the afternoon sitting is that while, in the case of forenoon sittings, we must close by 1-30 or thereabouts for Lunch, there may be a little longer sittings, if we sit in the afternoons and the work of the House might go on even after the period of five o'clock or half-past five, in accordance with the importance of the work and the wishes of the House. That is the reason why an afternoon sitting is preferable to a morning sitting. Otherwise, there is nothing wrong.

Some Honourable Members: No, no. We prefer a morning sitting of the Assembly.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Honourable Members should bear in mind that we have met here for the transaction of very important public business. (Hear, hear.) The suggestion made by the Leader of the Nationalist Party does not appeal to the Chair quite as much as some Honourable Members seem to imagine. Adjournment to the Delhi Session was specially made to deal with two very important subjects, the Ottawa Agreement and the Ordinance Bill. I should like Honourable Members to consider that if half-day sittings are agreed to, how long the House will have to sit.

Some Honourable Members: Till the middle of December.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Or it may go further beyond that date. It appears, therefore, having regard to the fact, if newspaper reports are to be believed, that a large number of witnesses have been asked to attend and give evidence before the Special Committee on the Ottawa Agreement

Sir Abdur Rahim: No, not a large number; only a small number.

LEGISLATIVE ASSEMBLY.

Tuesday, 15th November, 1932.

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

QUESTIONS AND ANSWERS.

JAMALPUR TECHNICAL SCHOOL.

1181. ***Mr. M. Maswood Ahmad:** Is it a fact that the Jamalpur institution (the technical school of the Railways) is not attached to any University?

Mr. P. R. Rau: Yes.

APPRENTICES ADMITTED ANNUALLY IN THE JAMALPUR INSTITUTION.

1182. ***Mr. M. Maswood Ahmad:** (a) Is it a fact that only 50 per cent. of the apprentices admitted annually in the Jamalpur institution are guaranteed jobs and are sent to England for further training?

(b) What is the academic qualification for admission to the Jamalpur institution?

(c) Will Government be pleased to state what are the jobs open for the apprentices who, after spending three or four years, are not selected for further training in England?

(d) Is it a fact that these selections for admission are first made in the provinces and then by the Public Service Commission on an all-India basis?

(e) Do Government propose to admit in future only such a number of apprentices as there are vacancies?

Mr. P. R. Rau: (a) The guarantee is up to half the number recruited but, as a matter of fact, a larger number has been sent to England both last year and this year.

(b) The qualifications required include the intermediate examination in Arts, Science, Agriculture or Engineering of University or Board approved by the Governor General in Council, the Cambridge Higher School Certificate Examination, and the Higher Diploma Examination of the Mayo College, Ajmer.

(c) No posts are guaranteed to apprentices not selected for training in England, but they will be considered for vacancies in the subordinate establishments for which they may be qualified.

(d) Yes.

(e) The question is under consideration.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Large and small are relative terms.

Sir Abdur Rahim: Only four or five witnesses.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): If 2, 4, 6, 7, 8 or 10—will that satisfy the Honourable Member?—witnesses are called and the lawyer Members of the Committee begin to cross-examine them, the Chair is not sure whether the Committee will be able to bring in their report by the 21st November as required by the Assembly Resolution.

Some Honourable Members: We doubt it.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): If that is so, Honourable Members should consider, how long this Session will have to be prolonged. If the House wishes to go on indefinitely, the Chair will have no objection whatever. The reason why the suggestion for an afternoon sitting was made is this: The House meets at 11 o'clock and adjourns ordinarily at 1-15 or 1-30. That means about 2½ hours work, out of which one hour goes to questions.

Mr. S. C. Mitra: There are very few questions left to be answered.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): But all the same the question hour is there. The House has dealt with question No. 1180 today and I have already admitted questions numbering nearly 1700. That being so, a good debate is not possible if we have to adjourn the business of the House in a little over an hour. The effect of that will be further prolongation of the debate. The advantage, therefore, of an afternoon Session is that if we met at quarter past two of the clock, we can, in public interest, sit up to half past five or even six in the evening giving considerably more time for the transaction of public business. That was the reason why this suggestion was made. But if the House wishes to meet in the mornings only, then a better alternative would be not to meet on some days of the week, but to sit whole day on other days. I know that there is a strong feeling against afternoon sittings, and the Chair will bear that in mind. I take it that the House desires that I should adjourn the House now till tomorrow.

(Cries of "Yes, yes.")

Then I will adjourn till eleven o'clock tomorrow to meet the general feeling in the House. I should like Honourable Members to consider carefully the aspect which the Chair has brought to their notice, in order to determine whether we will meet in the afternoon or whether we will meet the whole day on some days and not sit at all on other days. I hope the Leaders of Parties will let the Chair know tomorrow in time so that further adjournments may be regulated accordingly.

The Assembly then adjourned till Eleven of the Clock on Tuesday, the 15th November, 1932.

APPENDIX.*

Khan Bahadur Makhdum Syed Rajan Bakhsh Shah (South West Punjab: Muhammadan): Sir, I would like to speak today for only three minutes. A number of forceful speeches have been made in English on the Ottawa Resolution during the last four days; but no speech has been made in the House in Urdu. Considering, therefore, that a speech in Urdu is equally necessary, I rise to make one so that the Resolution does not go without a speech in Urdu.

I sincerely differ from my Indian friends who have spoken for or against the Resolution from the point of view of India's interest. Every Indian desires the good of India. It would have been very pleasant if some of the Honourable Members—or at least my Honourable friend, Haji Abdoola Haroon—had made their speeches in Urdu. I am rather inclined to think that every Member of the Assembly has not fully understood the issue involved in the Resolution excepting, of course, the *bania* class, the Honourable the Finance Member or those associated with finances. We are not concerned with the people of Bombay or other provinces. What we are concerned with is the gain of the agricultural classes, i.e., the zamindars. If, as a result of the adoption of this Resolution, the zamindars stand to gain in respect of the trade in foodstuff, cotton, etc., we would, by all means, support the Resolution. But, before we do so, we would like the Honourable the Finance Member to state in simple words—not in complicated words—to what extent the zamindars of India gain by this Resolution. If it is not possible for him to say anything just at present, he might as well place this information in detail before the Select Committee whose appointment is now under consideration by the House, so that we can decide our vote on the subject. The condition of us, zamindars, is going from bad to worse every day. If, therefore, the zamindars gain by this Resolution, we would strongly support it. The Mover should include the name of the Honourable the Finance Member in the Select Committee, and the motion for appointing a Select Committee should be adopted.

* Vide page 1960 of L. A. Debates, dated the 10th November, 1932.

GOVERNMENT ORDER ON MR. K. M. HASSAN'S REPORT.

1183. *Mr. M. Maswood Ahmad: (a) Has the Home Department passed any resolution or order on Mr. K. M. Hassan's report?

(b) If the reply be in the negative, will Government be pleased to inform by what time they propose to pass any such order or resolution on that report?

Mr. P. R. Rau: (a) No.

(b) The Report is still under the consideration of the Government of India and, I regret, it is not possible to say at present how soon a decision will be arrived at.

Mr. D. K. Lahiri Chaudhury: Will the Honourable Member be pleased to lay on the table the result of the negotiations that have so far been started or of the inquiry that has been made?

Mr. P. R. Rau: Which inquiry, may I know? The question is with regard to the orders passed on Mr. Hassan's report.

Dr. Ziauddin Ahmad: May I know what is your estimation about the time which the Home Department is likely to take?

Mr. P. R. Rau: I am afraid I cannot give an answer to that question.

Mr. M. Maswood Ahmad: Cannot the Home Department reply as to what time they propose to take in passing a resolution or issuing an order on Mr. Hassan's report?

The Honourable Mr. H. G. Haig: I do not think that the matter is in the charge of the Home Department, but it is a matter to which we, at the present moment, are giving special attention and, subject to the exigencies of business in this House, we shall certainly hope, as far as we are concerned, to reach conclusions as rapidly as possible.

Mr. M. Maswood Ahmad: Will the Railway Department be pleased to lay on the table the recommendations which have been made to the Home Department?

Mr. P. R. Rau: No, Sir.

APPOINTMENT OF A MUSLIM WATERMAN FOR THE MUSLIM STAFF IN THE OFFICE OF THE CHIEF AUDITOR, RAILWAY CLEARING ACCOUNTS, DELHI.

Mr. M. Maswood Ahmad: About this question 1184, I want to say that there is an omission—that after the word "other" in part (b) the word "than" has been omitted by mistake; I have informed Sir Alan Parsons of this and I hope my Honourable friend will reply to the question in the amended form.

1184. *Mr. M. Maswood Ahmad: (a) Are Government aware of the fact that annually during the summer season one Hindu water-man is employed departmentally to supply drinking water to Hindu clerks whereas no such arrangement is made for the Muslim staff in the Chief Auditor, Railway Clearing Accounts Office, Delhi?

(b) Are Government aware that the Shia section of Muslims do not eat or drink any article touched by other Muslims and that their religion does not allow them to eat or drink any thing touched by non-Muslims?

The Honourable Sir Alan Parsons: (a) and (b). In the past a Hindu waterman was engaged during the summer months; as the number of Muslim clerks was small, no special arrangement was made for them. Over three months ago, a new arrangement has been introduced and small allowances are now paid to some menials, including a Shia Muslim menial for supplying drinking water to the staff (Hindu and Muslim) throughout the year.

INTRODUCTION OF ANNUAL CONFIDENTIAL REPORTS ON THE CLERKS OF THE OFFICE OF THE CHIEF AUDITOR, RAILWAY CLEARING ACCOUNTS, DELHI.

1185. *Mr. M. Maswood Ahmad: (a) Are Government aware of the fact that Mr. S. D. Gupta, Chief Auditor, Railway Clearing Accounts, Delhi, has recently introduced an annual confidential report on the clerks of the Military Department in his own office and the same was circulated amongst the clerks for information?

(b) Will Government be pleased to state whether the introduction of this military procedure in the Chief Auditor's office was made after previously consulting the Director of Railway Audit and final approval by the Auditor-General, Central Revenues?

(c) Will Government be pleased to state, in this connection, whether this military procedure has also been introduced in other Audit offices under the control of the Director of Railway Audit?

(d) If the reply to part (c) be in the negative, will Government be pleased to state why this novel procedure has, at all, been introduced only in the Chief Auditor's office?

(e) Are Government aware of the fact that the remarks offered by the immediate superiors in connection with a number of questions and queries, contained in the confidential report, are not communicated to the clerk concerned and that he is not in a position to submit any explanation or correct any incorrect remark?

(f) Are Government aware that by this means the personal files of all the clerks are at the mercy of the immediate officers?

(g) Will Government be pleased to state the percentage of different communities in that department?

The Honourable Sir Alan Parsons: (a) Yes.

(b) No military procedure has been introduced. This is a matter in which some discretion is left to the Chief Auditor.

(c) Does not arise.

(d) The procedure of recording confidential reports on clerks is not novel. The new form has been introduced to make reports more informative.

(e) If there are any adverse remarks on any clerk, such remarks are as a matter of course communicated to the clerk concerned.

(f) Does not arise in view of the reply to part (e).

(g) The percentages of different communities in the clerical establishment of the office of the Chief Auditor, Railway Clearing Accounts, on 1st November, 1932, were:

Hindus	84.5 per cent.
Muslims .. .	8.6 per cent.
Sikhs .. .	5.2 per cent.
Anglo-Indians .. .	1.7 per cent.

Mr. M. Maswood Ahmad: Will this confidential report be sent to the employee for an explanation?

The Honourable Sir Alan Parsons: As I explained in my answer, if there are adverse comments, they will be communicated to the clerk concerned.

REDUCTION OF THE PERCENTAGE OF MUSLIM EMPLOYEES IN THE OFFICE OF THE CHIEF AUDITOR, RAILWAY CLEARING ACCOUNTS, DELHI.

1186. ***Mr. M. Maswood Ahmad:** (a) Is it a fact that the percentage of Muslim employees in the Chief Auditor, Railway Clearing Accounts Office, Delhi (including clerks, dufftries, and peons), has been reduced?

(b) If the reply to part (a) be in the affirmative, will Government state what percentage it has been reduced by?

(c) If the reply to part (a) be in the negative, will Government state what was the Muslim percentage in that department in February, 1931, and what it was on 31st August, 1932?

The Honourable Sir Alan Parsons: (a) The percentage of Muslim staff (Clerks, Dufftries and Peons) in the permanent establishment of the office of the Chief Auditor, Railway Clearing Accounts, was reduced on 31st August, 1931, owing to the death of a Muslim clerk. The vacancy has not been filled on account of retrenchment.

(b) The reduction has been to the extent of 1.25 per cent.
(c) Does not arise.

Dr. Ziauddin Ahmad: Is the Honourable gentleman satisfied that the orders of the Railway Board are carried out?

The Honourable Sir Alan Parsons: In this particular case I am answering on behalf of the Finance Department who have this establishment under their control. I am satisfied in regard to that that these orders are being carried out.

Dr. Ziauddin Ahmad: Was it not the function of the Financial Commissioner, Railways, to reply to this question and not the Finance Department?

The Honourable Sir Alan Parsons: No; in this case we are dealing with statutory audit and not with the railway accounts service which is under the Financial Commissioner, Railways.

DISCHARGE OF SIX PROVINCIAL FOREST SERVICE OFFICERS BY THE PUNJAB GOVERNMENT ON COMPENSATION PENSION.

1187. ***Sirdar Sohan Singh** (on behalf of Sardar Sant Singh): (a) Are the Government of India aware that the Punjab Government (*vide* their order of the 10th September, 1931) discharged six Provincial Forest Service Officers of more than 25 years' service on compensation pension and also about eight officers with lesser service and that, with the exception of one, all these officers were in the Provincial Service on the 9th March, 1926?

(b) Did the Punjab Government obtain the *previous* sanction of the Governor General in Council for the discharge of these five officers as required by paragraph 40 of Notification No. F-74-30, dated the 18th June, 1930, issued by the Secretary of State for India?

(c) If the Punjab Government have not obtained the necessary sanction, are Government prepared to call upon the Local Government to explain as to why the protection afforded by the above notification to these old servants of Government was not extended to them? Do Government propose to direct the Punjab Government to recall these officers to duty at once, treating the periods of their absence from active duty as leave on average pay?

(d) How do the Government of India propose to safeguard the interests of such officers? Will Government please state if such a sanction can be granted by the Government of India *after* the actual discharge of the officers with retrospective effect? If so, will Government please state the authority under which they can do so?

Mr. G. S. Bajpai: Certain information in regard to the question asked by the Honourable Member has been called for from the Local Government and an answer will be laid on the table of the House in due course.

REPAIRS TO THE FURNITURE OF THE LEGISLATIVE ASSEMBLY BUILDING AT SIMLA AND THE ASSEMBLY SECTOR AT NEW DELHI.

1188. ***Sir Muhammad Yakub:** (a) Will Government be pleased to state what is the total annual cost separately of repairing the furniture of the Legislative Assembly Building at Simla and the Assembly Sector at New Delhi?

(b) Who is responsible for the upkeep of the furniture, whether it is the Public Works Department or the Legislative Assembly Department?

(c) Who carried out the repairs to the furniture in the Assembly Sector, Council House, New Delhi, in 1931, and what was the actual cost?

(d) Was the expenditure incurred from the Legislative Assembly Department budget or from the Public Works Department budget?

(e) How, and by whom, are the repairs to be carried out this year and at what cost?

(f) Do Government propose to make it a rule that the repairs to the furniture of the Assembly Buildings at Simla and New Delhi should be carried out by the Legislative Assembly Department and not by the Public Works Department?

The Honourable Sir Frank Noyce: (a) The total annual cost of repairing the furniture supplied by the Central Public Works Department is as follows:

Legislative Assembly building at Simla—Varies from Rs. 1,260 to Rs. 1,500.

Legislative Assembly Sector at Delhi—About Rs. 1,650.

- (b) The Central Public Works Department.
- (c) Only essential repairs were carried out by the Legislative Assembly Department at a cost of Rs. 775.
- (d) The expenditure was incurred out of the Legislative Assembly Department's budget.
- (e) The repairs this year have been carried out by the Central Public Works Department. The cost is estimated at Rs. 1,610.
- (f) I am prepared to consider the suggestion in consultation with the Legislative Assembly Department.

RECOGNITION OF THE BRITISH MEDICAL REGISTER IN THE DRAFT MEDICAL COUNCIL BILL.

1189. ***Mr. M. Maswood Ahmad** (on behalf of Mr. Lalchand Navalrai): (a) Is it a fact that in the draft Indian Medical Council Bill the British Medical Register has been recognized?

(b) Have Government made any provision in return that the Indian Medical Register will be recognized by the British Medical Council or has any such guarantee been obtained from the British Medical Council?

(c) If not, what are the reasons which have led Government to recognize the British Medical Register in India?

Mr. G. S. Bajpai: (a) The Honourable Member's attention is invited to Schedule 2 to the Indian Medical Council Bill.

(b) Provision has been made in the Bill for schemes of reciprocity with authorities outside British India and for the withdrawal of recognition from any of the prescribed medical qualifications, if necessary.

(c) Government, after very carefully considering what qualifications should be recognised at the start, came to the conclusion that the only feasible course was to recognise those qualifications whether Indian, British or foreign, which, in the opinion of a well established organisation, indicated the attainment of an adequate standard.

Mr. Lalchand Navalrai: Has any provision been made for including licentiatees?

Mr. G. S. Bajpai: No.

Mr. Lalchand Navalrai: Why not?

Mr. G. S. Bajpai: Because if my Honourable friend would turn to the Statement of Objects and Reasons, he would find that the Bill limits itself to the regulation of graduate qualifications.

Mr. Lalchand Navalrai: Why has it been done so?

Mr. G. S. Bajpai: I think that is perhaps a question which the Government would be in a position to answer when the Bill is read a second time in the House.

Mr. M. Maswood Ahmad: Does the word "graduate" appear in the preamble?

Mr. G. S. Bajpai: I think so.

Mr. M. Maswood Ahmad: No; it does not. The word is "higher", which is a comparative term.

ALLEGED CIRCULATION OF A SECRET DOCUMENT BY A MUHAMMADAN MEMBER OF GOVERNMENT.

1190. ***Sirdar Sohan Singh** (on behalf of Sardar Sant Singh): Has the attention of Government been drawn to the issue of the *Tribune*, dated the 22nd October, 1932, publishing on page 3 'a secret document', of a distinguished Muhammadan leader who is said to be also a Member of Government? If so, will Government kindly state whether this document was circulated with the permission or knowledge of the Government of India?

The Honourable Mr. H. G. Haig: I have seen a newspaper report to the effect mentioned. The answer to the second part of the question is in the negative.

NUMBER OF ARRESTS AND CONVICTIONS UNDER THE CONSOLIDATED ORDINANCE.

1191. ***Sirdar Sohan Singh** (on behalf of Sardar Sant Singh): Will Government kindly state the number of arrests and the number of convictions under the provisions of the Consolidated Ordinance since its promulgation from the end of June, 1932, to 1st November, 1932?

The Honourable Mr. H. G. Haig: I lay on the table a statement giving the information in my possession up to the end of September. I will lay a further statement on the table, in due course, giving figures for October, 1932.

Statement showing (a) number of persons convicted not necessarily imprisoned under the Consolidated Ordinance of 1932 for offences connected with the Civil Disobedience Movement and (b) number of persons arrested under Section 3 of Special Powers Ordinance.

Province.	Number of persons convicted not necessarily imprisoned under the Consolidated Ordinance for offences connected with the Civil Disobedience Movement from 1st July to the end of September, 1932.	Number of persons arrested under section 3 of Special Powers Ordinance from 1st July to the end of September, 1932.
Madrass	47	..
Bombay	422	267
Bengal	94	93
U. P.	348	..
Punjab	43	4
B. & O.	618	..
C. P.	18	..
Assam	..	..
N.-W. F. P.	..	13
Delhi	88	21
Ajmer-Merwara	2	..
Total	1,680	398

IMPORT OF WHEAT INTO INDIA.

1192. *Sirdar Sohan Singh (on behalf of Sardar Sant Singh): (a) Will Government kindly state the quantity of wheat that had been imported into India during the years 1931 and 1932?

(b) What is the amount of duty collected on the same and at what rate?

(c) Is it a fact that surcharge levied on all duties by the Supplementary Finance Act of 1931 has not been charged on the import of wheat? If so, by what authority was wheat excluded from the surcharge?

The Honourable Sir Alan Parsons: (a) 1931, 245,115 tons.
1932, January to September, Nil.

(b) 1931, Rs. 4.6 lakhs, collected at Rs. 2 per cwt.
1932, January to September, Nil.

(c) There were no imports after the Finance (Supplementary and Extending) Act, came into force, up to the end of September, 1932. Had there been any imports, the surcharge would not have been applicable. Section 4 of the Act mentioned did not impose any surcharge on articles mentioned in Part I of Schedule II to the Indian Tariff Act.

RULES GOVERNING THE GRANT OR CANCELLATION OF PASSPORTS.

1193. *Sirdar Sohan Singh (on behalf of Sardar Sant Singh): Will Government kindly state under what statutory authorities the passports for various travellers are issued and refused? If there be no statutory authority, will Government kindly state which authority had framed the rules governing the grant or cancellation of passports? Is it a fact that under the rules no person can be denied a passport on account of his political views and activities?

Mr. H. A. F. Metcalfe: There are no statutory rules or orders governing the issue of passports and it is not compulsory for persons proceeding out of India to be in possession of such documents. But as passports are demanded of travellers by the authorities of foreign countries these are issued according to rules framed by the Government of India for the guidance of passport issuing authorities. These rules provide for the refusal of passports on political grounds.

HORSE BREEDING IN JHELUM CANAL COLONIES.

1194. *Sirdar Sohan Singh (on behalf of Sardar Sant Singh): With reference to the supplementary question asked by Mr. B. R. Puri to question No. 169 of the 12th September, 1932, about the orders, issued by the Zilledar of Mangwana Zail on 7th March, 1930, to the Lambardars of the various villages to produce their mares in horse show fairs and in rest, are Government prepared to make an official enquiry into the matter and state what actions they have taken against the Zilledar?

Mr. G. R. F. Tottenham: Enquiries have already been made. I am assured that the letter in question was not intended as an order or understood as such by the majority of its recipients. On the other hand, the wording of the order was certainly open to a different interpretation; and

instructions are therefore being issued to all Zilladars to the effect that notices about fairs and races should be so expressed in future that they cannot be interpreted as orders. I trust that the Honourable Member will agree that this action is sufficient.

PRICE OF BURMAH OIL COMPANY'S PETROL.

1195. *Sirdar Sohan Singh (on behalf of Sardar Sant Singh): (a) With reference to the answer to question No. 159 on the 8th September, 1932, will Government be pleased to state if it is not a fact that B. O. C. petrol is sold at a cheaper rate at London than at Calcutta? If so, what are the reasons for such different rates between Indian prices and prices in England?

(b) Have Government inquired into the matter that the price of petrol is controlled in India by a combination or ring of importers?

(c) Has the attention of the Government of India been drawn to the lowering of the prices in Bombay and Poona during the last few months on account of the import of petrol from Russia? If so, are Government prepared to provide facilities for the import of Russian petrol in the other towns of British India as well?

The Honourable Sir Joseph Bhore: (a) B. O. C. petrol, i.e., petrol derived from oil-fields in India and Burma under the control of the Burmah Oil Company is not sold in London. No comparison of Indian and London prices is, therefore, possible.

(b) The matter is still under investigation.

(c) The Government of India have seen certain press reports regarding the reduction of the price of petrol in Bombay. There is nothing, as far as I know, to prevent the sale of the petrol referred to by the Honourable Member in any town in India and I am not aware that any special facilities can be given by Government to any one in this matter.

Mr. K. Ahmed: Is it a fact that the property on which this Petrol Company is carrying on business is lease-hold property under the Government, and, if that is so, have not Government got any control over it while granting fresh leases or are there any special clauses or conditions which can be enforced with a view to compelling the Company to reduce their prices besides the other methods of compelling them to bring down their rate?

The Honourable Sir Joseph Bhore: I am not aware of the terms under which the Burmah Oil Company holds land.

Dr. Ziauddin Ahmad: Am I correct in assuming from the answer to part (a) that the export of petroleum from India to United Kingdom is zero or is absolutely nothing?

The Honourable Sir Joseph Bhore: My Honourable friend must give me notice of that question.

Dr. Ziauddin Ahmad: I understood that the Honourable Member said that since nothing was exported, therefore the comparison of the prices does not arise.

The Honourable Sir Joseph Bhore: I referred to B. O. C. petrol.

Dr. Ziauddin Ahmad: Is there anything else like shell, etc., which is also produced in India?

The Honourable Sir Joseph Bhore: The question referred definitely to B. O. C. petrol and a comparison of the prices of that petrol in England and in India, and my reply was directed to that one specific question.

Dr. Ziauddin Ahmad: The main issue in this particular question is that the petrol produced in India is sold cheaper in the London market than it is sold in Rangoon or Calcutta. That is really the question.

The Honourable Sir Joseph Bhore: That is quite a different question. If I remember rightly, I gave a reply to that on the last occasion. I gave my Honourable friend information regarding the various prices.

Dr. Ziauddin Ahmad: That was the thing I had in mind.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member must remember that this question has been specifically asked to elicit information about a particular point, and, therefore, supplementary questions on the general aspect of the question cannot arise.

Mr. B. Das: Is it not a fact that the difference in the excise and import duty of nine pies on kerosine oil enables the Burmah Oil Company to lower the prices of petrol for the British market?

The Honourable Sir Joseph Bhore: I am afraid I do not carry details in regard to kerosine oil in my head.

Mr. B. Das: Is it not a fact that kerosine oil has got nine pies difference between the import duty and the excise duty, and, therefore, the Burmah Oil Company gets the advantage?

The Honourable Sir Joseph Bhore: I shall be happy to supply the information to my Honourable friend about kerosine oil if he will put a question down on the paper.

Mr. K. Ahmed: In view of the fact that there is a general complaint throughout the length and breadth of India that the price of petrol is unusually high,—and the grievance has been ventilated to Government Departments again and again during the last few years,—do Government propose, since the Honourable the Commerce Member said that he has had not got the terms and conditions, etc., to send for them and see their way to expedite the matter of bringing down the price of petrol, because there is a general clamour in the country?

The Honourable Sir Joseph Bhore: I do not know to what conditions my Honourable friend is referring.

Mr. K. Ahmed: The conditions referred to by the Honourable the Commerce Member himself when he said that he did not know the terms and conditions in the agreement of lease? Has the Honourable Member caught my point or I shall have to explain it again? (Laughter.)

The Honourable Sir Joseph Bhore: I shall be glad if the Honourable Member will explain the point.

Mr. K. Ahmed: The Honourable the Commerce Member said that he was not aware of the conditions set out in the agreement of lease while answering my supplementary question just a minute ago. Will he be good enough to send for copies of those leases or agreements in which the conditions, etc., are set out and see whether there is any way by which his department can compel these people to reduce the price of petrol since there is a general clamour in the country?

The Honourable Sir Joseph Bhore: My Honourable friend must realise that the conditions under which these companies hold leases must vary from place to place and from locality to locality and from province to province, and it would be an impossible task for me, Sir, to conduct an investigation into all these matters.

Mr. K. Ahmed: My Honourable friend may take it for granted that it will neither take a long time nor involve a great expense, except probably five pice for Service Stamps, all the information is already collected and he will not have to incur any extra expense or labour, because it is a very easy thing and simple thing also; one line to the Local Government will fetch him the information which he himself is not aware of, and it is absolutely necessary that he must have that information for his own benefit.

(There was no answer for a few seconds.)

Mr. K. Ahmed: If there is no answer, Sir, what is the use?

The Honourable Sir Joseph Bhore: I am not quite sure what information he refers to, but if my Honourable friend has this information at his command, I shall be very grateful if he will supply it to me.

Mr. M. Maswood Ahmad: Do Government realise that there is a strong feeling that the price of B. O. C. and other petrol is very high and that now-a-days it is almost a daily necessity instead of a luxury?

The Honourable Sir Joseph Bhore: I think my friend is quite right in suggesting that, I think there is a feeling like that.

Mr. S. C. Mitra: Arising out of the answer given to my friend, Mr. B. Das, are we to understand that the Honourable the Commerce Member is not aware of the fact that there is a difference of nine pies between the excise duty on kerosine oil and the import duty?

The Honourable Sir Joseph Bhore: I believe there is such a difference, but if my friend wants accurate information, I suggest that he should put a question on the paper, and I shall be able to supply him the information on the point.

APPRENTICE PERMANENT WAY INSPECTORS ON THE NORTH WESTERN RAILWAY.

1196. *Sirdar Sohan Singh (on behalf of Sardar Sant Singh): (a) Is it a fact that Apprentice Permanent Way Inspectors were accepted on the North Western Railway in the year 1926? Is it also a fact that on appointment as Apprentice Permanent Way Inspector a printed book was supplied to each employee containing the prescribed course of training for Permanent Way Inspector with dates for undergoing the training? Is it also a fact that the persons taken did fulfil all the conditions of the standing rules laid down in that book?

(b) Is it a fact that in that printed book it was laid down that in case the apprentice shows special ability and is recommended as duly qualified, he may, if vacancies exist, be appointed to inspectorship after four years?

(c) If so, is it also a fact that vacancies did occur and that the employees did fulfil all the conditions and were duly qualified and recommended and yet they were not appointed to inspectorship on the due date?

(d) Is it a fact that after the due date the vacancies occurred and yet they were not filled in by the Apprentice Permanent Way Inspectors, but were filled in by the sub-permanent and sub-way inspectors? How many of such Apprentice Permanent Way Inspectors are there who have duly qualified themselves and who still remain to be provided?

(e) Do Government propose to address the Agent, North Western Railway, asking him to try to fulfil the engagements with these apprentices, who still remain unprovided? If not, why not?

(f) Is it a fact that their position in the final examination is not kept in view when the appointments are offered? If not, why not?

Mr. P. R. Rau: (a) to (d) and (f). Government have no information.

(e) I am sending a copy of the question to the Agent, North Western Railway, for any action he may think it necessary to take in order to see that any engagements that may have been entered into are kept.

NUMBER OF SIKHS ARRESTED IN THE CENTRAL PROVINCES AND IN THE UNITED PROVINCES OF AGRA AND OUDH FOR WEARING KIRPANS.

1197. *Sirdar Sohan Singh (on behalf of Sardar Sant Singh): (a) Will Government kindly state the number of Sikhs arrested in the Central Provinces and in the United Provinces of Agra and Oudh for wearing kirpans in the year 1932? If so, why?

(b) How many of them are undergoing or have undergone imprisonment for wearing kirpan during this period?

(c) What was the length of kirpan possessed by each at the time of arrest?

(d) Is it a fact that sword is exempted from the operations of the Arms Act in both these Provinces? If so, are Government aware that sword and kirpan are the synonymous terms as given in the judgment of the High Court of Judicature at Lahore, dated 18th March, 1924 (5 Lahore, page 308)? If so, what were the grounds for taking action against Sikhs wearing kirpans?

The Honourable Mr. H. G. Haig: (a) to (d). I have made enquiries from the Local Governments concerned and will furnish a reply in due course.

EXEMPTION OF THE WEARING OF KIRPANS BY SIKHS FROM THE OPERATIONS OF THE ARMS ACT.

1198. *Sirdar Sohan Singh (on behalf of Sardar Sant Singh): Is it a fact that by Notification No. 242, dated 11th May, 1917, the Government of India, in exercise of the powers conferred by section 27 of the Indian Arms Act, exempted from the operations of the Arms Act kirpans possessed or carried by Sikhs throughout India? If so, was this Notification modified by the Government of India later on? If so, when? If not, then under what statutory authority the Local Governments of Bombay, Central Provinces and United Provinces have modified the Notification issued by the Government of India?

The Honourable Mr. H. G. Haig: The scope of Notification No. 242, dated the 11th May, 1917, was as stated by the Honourable Member. Under Schedule II of the Indian Arms Rules, 1920, published under notification No. 1 of 1st January, 1920, all arms except firearms were excluded from the operation of all prohibitions and directions contained in the Act, but Local Governments were authorised to retain all or any of such prohibitions and directions in respect of arms in the case of any class of persons or of any specified area. It is by virtue of this authority which was retained in the Arms Rules of 1924 that certain restrictions in the case of kirpans have been imposed by some Local Governments.

RESOLUTIONS OF THE SHIROMANI GURDWARA PARBANDHAK COMMITTEE, AMRITSAR, PROTESTING AGAINST THE RESTRICTIONS PLACED ON THE POSSESSION AND CARRYING OF KIRPANS BY SIKHS IN THE PROVINCES OUTSIDE THE PUNJAB.

1199. *Sirdar Sohan Singh (on behalf of Sardar Sant Singh): (a) Is it a fact that the Shiromani Gurdwara Parbandhak Committee, Amritsar, sent a resolution protesting against the restrictions placed on the possession and carrying of kirpans by Sikhs in the provinces outside the Punjab on the 9th July, 1932, to the Government of India? If so, will Government kindly place that resolution on the table of the House?

(b) Was any reply sent to the Shiromani Gurdwara Parbandhak Committee, Amritsar? If so, when? Will Government kindly lay a copy of the reply on the table?

The Honourable Mr. H. G. Haig: (a) The Honourable Member's information is correct, Government do not consider it necessary to place a copy of the resolution on the table.

(b) As the Committee had forwarded copies of the resolution to all Local Governments and to the press and as the matter was one for the consideration of certain Local Governments only, the Government of India did not find it necessary to take any action.

Mr. Lalchand Navalrai: Is the resolution a confidential paper so that it cannot be placed on the table?

The Honourable Mr. H. G. Haig: I did not quite understand the Honourable Member's question.

- (d) whether there are mutual agreements between the Government of India and the Portuguese and French Governments in regard to the reciprocal transmission of inland postal articles; if so, when were the agreements entered into and what are their main features; and
- (e) whether any statistics are taken of such postal articles transmitted from Portuguese and French territories in British India; if so, what is their number in the last official year?

Mr. T. Ryan: (a) The postage on a postcard sent from Portuguese India to British India is 3 reis and the minimum postage on a letter is 6 reis. I understand that these rates are equivalent to a quarter anna and half an anna, respectively. Postcards and letters posted in Portuguese India for any place in British India are carried by the Indian Posts and Telegraphs Department.

(b) No. The Indian Government have no right, or reason, to make any such suggestion. As the postage is retained by the sending country, it is immaterial to India whether the Portuguese charge is high or low.

(c) No.

(d) There is no formal agreement for the exchange of correspondence between British India and Portuguese India. The arrangements were arrived at by an exchange of letters in 1878 when it was settled that the rate of postage on postcards and letters from British India to Portuguese India should be the same as the British Indian inland rates. In the reverse direction the charges notified were as I have just stated. A Convention was concluded in 1931 between the Government of India and the Government of the French Settlements in India by which it was agreed that postal communication between British India and the French Settlements in India should be carried on through British Indian Post Offices situated in those Settlements, and British Indian inland rates of postage are charged on such correspondence.

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

ORDERS PLACED WITH PROVINCIAL JAILS BY THE INDIAN STORES DEPARTMENT FOR REQUIREMENTS OF THE CENTRAL GOVERNMENT.

1203. ***Mr. J. Ramsay Scott:** (a) Will Government please state whether, when Government drew up their resolution of December 23rd, 1922, it was anticipated that jail competition with private enterprise would be only provincial? Did Government anticipate that jails would compete for orders placed by the Central Government?

(b) Will Government please state how many times jails have tendered to the Indian Stores Department in the last 18 months?

(c) Will Government please state how many orders have been placed with Provincial Jails by the Indian Stores Department for requirements of the Central Government in the last 18 months and, for what articles, and, at what rates?

The Honourable Mr. H. G. Haig: (a) It was intended that jail industries would, subject to certain conditions, be permitted to supply

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consuming Departments of Government, and no distinction was drawn between Provincial and Central Departments.

(b) Forty-six times.

(c) A statement is laid on the table giving the information required.

STATEMENT.

Eighteen orders were placed for the following articles at the rates shown against each:

Barrack blankets at Rs. 3-9-3, 3-12-0, 3-13-6, and Rs. 4 each.

Dungry cloth at Re. 0-3-3 and 0-3-6 per yard.

Dusters at Rs. 1-14-0, 2-1-0, 2-3-0, 2-7-0, 2-9-0, 3-8-0 and Rs. 4-5-0 per dozen.

Dosuty at Re. 0-4-9 and 0-5-0 per yard.

Towels at Rs. 2-13-0, and 3-3-0 a dozen.

Cash bags of cotton net at Re. 0-12-0 and Rs. 1-4-0 each.

Durrie at Rs. 32.

Cane trays at Rs. 2 each.

ORDERS PLACED WITH PROVINCIAL JAILS BY THE INDIAN STORES DEPARTMENT FOR REQUIREMENTS OF THE CENTRAL GOVERNMENT.

1204. ***Mr. J. Ramsay Scott:** (a) Has the Indian Stores Department instructions to buy in the cheapest market?

(b) When orders are placed with jails, may it be presumed that it is because their rates are lower than those of the trade?

(c) Are Government aware that in reply to my starred question No. 919 of March 24th, 1932, they stated that as a rule jail prices were slightly higher than market prices? If so, will Government please explain why orders are placed with jails at higher rates?

The Honourable Mr. H. G. Haig: (a) and (b). I would refer the Honourable Member to the answer given by my Honourable Colleague the Member for Industries and Labour to Mr. S. C. Mitra's starred question No. 433 on the 19th September last.

(c) The answer quoted by the Honourable Member was of a general character, and did not affirm that in all cases prices of jail manufactures were above the market rate.

PROCEDURE FOR THE FIXING OF JAIL PRODUCE RATES.

1205. ***Mr. J. Ramsay Scott:** (a) In reply to my starred question No. 918 of March 24th, 1932, part 2, Government stated that they understood that the procedure for the fixing of jail produce rates was carried out. Are Government prepared to see that this procedure is carried out?

(b) Will Government please state what steps have been taken to see that this procedure has been carried out?

(c) Are Government prepared to give an undertaking that this procedure is strictly carried out in future?

The Honourable Mr. H. G. Haig: (a), (b) and (c). Enquiry was made in 1930 as to the procedure for fixing the prices of jail made articles and

the replies received from the Local Governments indicate that the procedure laid down in the resolution of 1922 is being generally carried out.

Mr. J. Ramsay Scott: Is the Honourable Member prepared to make a similar enquiry for 1931?

The Honourable Mr. H. G. Haig: I do not think it is necessary to repeat this enquiry every year.

JAIL COMPETITION WITH PRIVATE ENTERPRISE.

1206. ***Mr. J. Ramsay Scott:** (a) Have Government seen the leader in the *Madras Mail* of 17th March, 1932?

(b) Are Government aware that the outturn of the Madras jails in 1931 was valued at 12 lakhs?

(c) Have Government considered whether such competition affects the free labour market and increases unemployment?

(d) What steps do Government propose to take to redress this grievance?

The Honourable Mr. H. G. Haig: (a) Yes.

(b) The outturn for 1930 was 12 lakhs. For 1931 it was 10 lakhs and 36 thousands.

(c) and (d). I have no reason to suppose that the Government of Madras are not alive to the considerations stated by the Honourable Member. The policy of the Government of Madras in this matter is stated in paragraph 12 of their review dated the 6th September, 1926 on the Jail Administration Report for the year 1925.

Mr. B. Das: Is it not a fact that the object of the jail industry is to train up the convicts in certain industries so that when they come out of jail, they can start those industries themselves?

The Honourable Mr. H. G. Haig: That is certainly the case.

Mr. B. S. Sarma: Will Government be pleased to state whether the provisions of the Indian Factories Act are applicable to jail industries, or whether these industries are exempt from the operation of the provisions of that Act?

The Honourable Sir Frank Noyce: I am afraid I must ask for notice of that question. My impression is that the provisions of the Factories Act do apply to certain jail industries, but I cannot say definitely without making enquiries.

Mr. F. E. James: The Honourable Member stated that he was aware that the purpose of employing convicts in these mills was to train them for work after they had left the prison. Is he also aware that Provincial Governments generally keep no statistics as to what happens to convicts after they have left the jail, and, therefore, are not in a position to say whether this policy is successful or not?

The Honourable Mr. H. G. Haig: That may be so. I have no information on the point.

Mr. J. Ramsay Scott: Is the Honourable Member aware that the United Provinces Government state that less than half or one per cent. of the number take to the industry after leaving jail?

The Honourable Mr. H. G. Haig: I am not aware of that, but I am perfectly prepared to take it from my Honourable friend.

Mr. Lalchand Navalrai: Will the Honourable Member be pleased to state if, as a matter of fact, training is given to these prisoners to such an extent that when they come out they work independently in these avocations?

The Honourable Mr. H. G. Haig: I cannot say to what extent this policy has any practical result. I have merely said that one of the reasons for employing prisoners in industries of this type was that they might receive some training which would be useful to them after they had been released from jail.

JAIL COMPETITION WITH PRIVATE ENTERPRISE.

1207. ***Mr. J. Ramsay Scott:** (a) Is it a fact that in June 1931, orders for 15,000 blankets were placed with the Bhagalpur Jail by the Indian Stores Department at a price of Rs. 3-8-0 while the market rate, at which the balance of the order was placed, was Rs. 4-8-0 each?

(b) Was the jail quota only limited by the output of the jail?

(c) Are Government aware that in June, 1932, the jail was given an order for 25,000 blankets at Rs. 4-0-0 each?

(d) Is it the policy of the Government to extend jail competition with private enterprise?

The Honourable Mr. H. G. Haig: (a) No order for blankets was placed with the Bhagalpur Jail in June, 1931. An order for 15,000 blankets was, however, placed with the jail in August, 1931, at Rs. 3-12-0 per blanket against a demand for 96,300 blankets. The balance of the order was placed with other suppliers at Rs. 4-8-0 and at Rs. 4-10-0 per blanket.

(b) No. The Bhagalpur Jail quoted for 40,000 blankets.

(c) No.

(d) No. The keynote of Government's policy in this matter is that there should be as little interference as possible with private enterprise.

JAIL COMPETITION WITH PRIVATE ENTERPRISE.

1208. ***Mr. J. Ramsay Scott:** (a) Are Government aware of the great amount of unemployment at the present moment?

(b) Are Government aware that a large amount of machinery is standing idle, because the trade for which it was purchased has become a jail monopoly?

(c) Is it the policy of the Government to assist Indian industries? If so, have Government considered whether jail competition does or does not assist the Indian manufacturer?

The Honourable Mr. H. G. Haig: (a) Yes.

(b) No.

(c) While Government are anxious to encourage Indian industries, they consider it legitimate that jail manufactures should be used in the limited conditions laid down in the Government resolution of 1922.

JAIL COMPETITION WITH PRIVATE ENTERPRISE.

1209. ***Mr. J. Ramsay Scott:** (a) Is it a fact that the United Provinces Government on June 15th in reply to question No. 68 stated that they had reduced their percentage of profit?

(b) Are Government aware that a resolution on jail competition was ballotted for in the Punjab Council last Session?

(c) Is it a fact that the Associated Chambers of Commerce brought this matter up last year and that the Councils of Madras, Punjab and United Provinces are interested in jail competition? Are Government prepared to reconsider the question?

The Honourable Mr. H. G. Haig: (a) I understand that the position is as stated by the Honourable Member.

(b) The Government of India have no information.

(c) The Government of India addressed all Local Governments in 1930 and do not consider that any further reference to them is necessary at present, but I am prepared to forward to Local Governments copies of these questions and answers.

RE-INTRODUCTION OF A THROUGH CARRIAGE BETWEEN LUCKNOW AND BOMBAY.

1210. ***Mr. J. Ramsay Scott:** (a) In reply to my starred question No. 995 of 29th March, 1932 (regarding the re-introduction of a through carriage between Lucknow and Bombay) Government stated that the Agent Great Indian Peninsula Railway, had been asked to re-examine the matter. Will Government kindly intimate what has been the result of the re-examination?

(b) Will Government please state the number of first and second class tickets from Lucknow to Bombay and from Cawnpore to Bombay purchased on each day of the last fiscal year 1931-32?

(c) Will Government please also give the numbers of first and second class tickets from Bombay to Cawnpore and Lucknow purchased during the same period?

Mr. P. R. Rau: (a) The Agent of the Great Indian Peninsula Railway reports that two censuses were taken at Jhansi for a period of 14 days each from the 28th December, 1931, to the 10th January, 1932, and from the 14th to the 27th April, 1932, of the through first and second class passengers who travelled between Bombay and Cawnpore or Lucknow. At these censuses it was found that the daily average total number of passengers between the abovementioned stations in the two mail trains up and down which pass Jhansi daily to which through carriages are not now regularly attached was 2½ first class and 5 second class on both occasions. The Agent does not consider that these figures justify

attaching an additional through coach to the mail as a permanent measure, but arrangements are in force to attach a through coach to mail trains between Cawnpore and Bombay when a sufficient number of passengers between Cawnpore or Lucknow and Bombay offer?

(b) and (c). From the figures given in reply to the first part of the question it appears that the collection of more detailed information is hardly necessary.

PURCHASE OF TWO OLD SHIPS FOR SINKING TO ACT AS A BREAKWATER.

1211. ***Mr. J. Ramsay Scott:** (a) Is it a fact that two old ships have been purchased for sinking to act as a breakwater?

(b) Was the first ship purchased in England, and what did it cost?

(c) Was the second purchased in India, and what did it cost?

(d) Who was responsible for these purchases? If both ships had been bought in India, what would the saving have been?

(e) How many such ships were available in India?

Mr. P. R. Rau: (a) Yes.

(b) and (c). One ship was purchased in England at a cost of £8,500 and another in India at a cost of £3,000. The difference in cost is due to the expense involved in the navigation of the first from England to Vizagapatam, while the second was lying at Calcutta and the cost of delivery at Vizagapatam was comparatively small.

(d) and (e). The High Commissioner purchased these ships at the request of the Government of India. The desirability of obtaining in India, if possible, hulls for the required purpose was borne in mind by the Government of India, and before the scheme was finally approved enquiries had been made in India by the Engineer-in-Chief of the Harbour Construction without success. Later it came to the notice of the Railway Board that certain ships were available in Calcutta and the High Commissioner was advised accordingly. The High Commissioner reports that boats of the particular type required by the Engineer-in-Chief were very few in number and the two selected were the only vessels that could be obtained except at exorbitant prices.

FOREIGN MAILS OF LUCKNOW AND CAWNPORE MISSING CONNECTION OWING TO A DERAILMENT.

1212. ***Mr. J. Ramsay Scott:** (a) Is it a fact that the foreign mails of the 27th August, 1931, from Lucknow and Cawnpore missed connection owing to a derailment?

(b) Did the Postmaster General, Bombay, communicate this information to the Postmaster General, United Provinces? If so, when?

(c) Is it a fact that the Postmaster General, United Provinces, first heard of the missed connection on October 13th?

(d) Did any business firm in Cawnpore make any complaint, and how long was it when they received any reply?

(e) Did the Director General of Posts and Telegraphs call for a report from the Postmaster General, United Provinces?

(f) Was the request for particulars lost or mislaid in the office of the Postmaster General, United Provinces?

(g) Is it a fact that nearly five months elapsed before the Cawnpore firm was notified of the facts of the case?

(h) Have any steps been taken to speed up replies to the public? What is the normal period within which letters of complaint are replied to?

Mr. T. Ryan: (a), (e) and (f). Yes.

(b) The reply to the first part is in the negative. The second part does not arise.

(c) The report of the misconnection was first received on the 13th October, 1931, by the Postmaster, Cawnpore.

(d) Yes. The National Bank of India, Cawnpore, complained to the Postmaster, Cawnpore, on the 15th September, 1931, and received a reply at once; it was not, however, until the 13th October that the Postmaster was in a position to explain exactly what had caused the delay; he advised the National Bank on that date.

(g) No; as I have just stated, the firm was informed of the facts of the case on the 13th October.

(h) Does not appear to arise on this case; but I may say that every effort is made to ensure that public complaints are promptly attended to and answered as soon as possible. No uniform period can be specified for replies as some cases, such as the present one, involve investigation and correspondence with many different offices, while others can be dealt with much more summarily.

JUMA MOSQUE, DELHI.

1213. **Mr. M. Maswood Ahmad:** Will Government be pleased to state in connection with the Juma Mosque, Delhi:

(a) whether there was any amount paid to Government in connection with the Juma Mosque, Delhi, by the Managers or by the Muslim public;

(b) whether the ten Managers who signed the agreement on the 24th November, 1862, were representatives of Mussalmans;

(c) how those ten Managers were selected to represent the Muslim community;

(d) whether the present Managers of the Juma Mosque had brought to the notice of the Deputy Commissioner, under clause 3 of the agreement, any such thing which was beyond their control and which might tend to show contempt or disloyalty to Government;

(e) whether anything has been done or any act committed contrary to the wishes of the Government for the last ten years contrary to the terms of the agreement; if so, whether Government will submit a statement; and

(f) whether Government claim the rights mentioned in clauses 3 and 6 of the agreement?

The Honourable Mr. H. G. Haig: (a) No.

(b) and (c). It is hardly possible to say exactly what was the status of the signatories to the agreement 70 years ago, but undoubtedly they were considered to be leading and representative Muslims of Delhi.

(d), (e) and (f). I would refer the Honourable Member to the Press Communiqué issued by the Chief Commissioner on the 31st August last.

Mr. K. Ahmed: Will Government be pleased to state whether the land situated on the eastern side of the Jumma Mosque and intervening between the mosque and the park adjoining the public thoroughfare in King's high way situated between the Delhi Fort and the mosque was generally occupied by the public in the matter of prayer, particularly on Fridays, which takes place a week before the Id-ul-Fitr, that is to say, fasting prayer and lakhs and lakhs of people used to gather there in congregation larger than what it is now and these people are subjected to great harassment and inconvenience when they say their prayer and is it a fact that this land has been used for prayer from time immemorial, for seventy years, since the transfer of the Government from the East India Company to the British Administration and what do the Government

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Will the Honourable Member content himself by putting one question at a time?

The Honourable Mr. H. G. Haig: I have no information on the point raised by the Honourable Member.

Mr. K. Ahmed: Are Government aware that lakhs and lakhs of people come there just a week before this fasting prayer, Id-ul-Fitr, and they do not get sufficient room while saying prayer. Many Members of the Assembly, particularly Muslims, find difficulty and if the answer be in the affirmative, do Government propose to remove this great anomaly and the grievance of the community?

The Honourable Mr. H. G. Haig: I should be glad if my Honourable friend would put down a question on the subject.

JUMA MOSQUE, DELHI.

1214. **Mr. M. Maswood Ahmad:** Will Government be pleased to lay on the table a copy of all the correspondence which up till now has passed between the Chief Commissioner and the Juma Mosque managing committees in the months of July, August, September, October and November, 1932, in connection with the Juma Mosque, Delhi?

The Honourable Mr. H. G. Haig: There has been no correspondence between the Chief Commissioner and the Managing Committee of the Juma Masjid. The Deputy Commissioner, it is understood, addressed the Committee, but I am not prepared to lay the correspondence on the table.

Mr. M. Maswood Ahmad: Is this correspondence confidential?

The Honourable Mr. H. G. Haig: I think it might be described as confidential.

Mr. M. Maswood Ahmad: Is it a fact that the initiative was taken by the Managing Committee?

The Honourable Mr. H. G. Haig: No, Sir. The Press Communiqué to which I have just referred stated that the Deputy Commissioner had brought certain matters to the notice of the Committee.

Mr. M. Maswood Ahmad: I was neither dealing with the Press Communiqué nor the circular to which my Honourable friend has referred. I wanted to know the facts,—as to whether some initiative was taken by the Managing Committee and on that initiative the Deputy Commissioner issued that warning letter or circular whatever you call it.

The Honourable Mr. H. G. Haig: No, Sir. That was not the case. The initiative such as it was appears to have been taken by the district authorities.

Mr. M. Maswood Ahmad: Is the Honourable Member sure of it?

The Honourable Mr. H. G. Haig: That, Sir, is the information given to me by the Chief Commissioner.

PRIVILEGE OF FILING APPEALS TO THE RAILWAY BOARD AGAINST THE DECISIONS OF THE AGENT, NORTH WESTERN RAILWAY.

1215. ***Mr. Lalchand Navalrai:** (a) Will Government be pleased to state what powers have been given to the Agent, North Western Railway, for which he is the final authority?

(b) What is the remedy left to the persons aggrieved in regard to such final orders of the Agent?

(c) Does not the Railway Board exist for correction and supervision in such matters and what are the functions which the Railway Board in practice exercise in remedying such of these wrongs brought to their notice by the parties concerned by way of revision, appeal or otherwise?

(d) Will Government be pleased to state how many such cases were brought to the notice of the Railway Board during the last two years and were they all disposed of by a stereotyped reply that the Agent was the sole deciding authority? If not, in how many cases did the Railway Board use their inherent powers?

Mr. P. R. Rau: (a) I would refer the Honourable Member to Part II of the Book of Financial Powers in Railway matters, copies of which are available in the Library of the House.

(b) and (c). I would invite the attention of the Honourable Member to the Railway Services (Classification, Control and Appeal) Rules; rules regulating discharge and dismissal of State Railway non-gazetted Government servants and instructions regarding the submission of petition to the Governor General in Council, copies of which are in the Library of the House.

(d) I regret it is not possible to give definite information as to the number of cases received by the Railway Board within the last two years without undue expenditure of labour and time; but I understand that in all, except three or four, such cases the memorialists were informed that no appeal lay to the Railway Board. Enquiries were made by the Board in three or four cases as they appeared to present special features.

MEDICAL OFFICERS OF SUPERIOR AND SUBORDINATE GRADES ON THE NORTH WESTERN RAILWAY.

1216. ***Mr. Lalchand Navalrai:** (a) Will Government be pleased to state how many medical officers of superior and subordinate grades are in service on the North Western Railway now?

(b) At what places on the North Western Railway are the superior medical officers stationed and what denominations do they belong to?

(c) How many superior medical officers are working on the Sind and Baluchistan sections of the North Western Railway and what denomination they belong to?

(d) Are any Sindhis amongst the superior medical officers on the Sind and Baluchistan sections?

(e) If so, how many, and where are they posted?

(f) If not, are Government prepared to appoint some Sindhis instead of importing outsiders?

Mr. P. R. Rau: (a) There are four Superior State Railway Medical Officers employed on the North Western Railway. The number of medical subordinates shown in the Classified List of subordinate staff corrected up to 30th September, 1931, is 14 Military Assistant Surgeons and eight Railway Assistant Surgeons.

(b) Of the superior officers, one is the Chief Medical and Health Officer stationed at Lahore, and three are Medical Officers stationed at Delhi, Multan and Rawalpindi.

(c) None.

(d) and (e). So far as I can say from the names of the officers concerned there are no Sindhis among the superior Medical Officers.

(f) I am afraid it is not possible to select members of the State Railway Medical Service on the basis of representing all the provinces or parts of provinces through which a railway passes.

Mr. Lalchand Navalrai: Is it the policy of the Railway to appoint people of the section in preference to others, if they have got the same qualifications or not?

Mr. P. R. Rau: Not in connection with the superior medical staff, because these are recruited on an all-India basis.

Mr. Lalchand Navalrai: I did not fully catch the reply to part (b) of the question as to what denominations these officers belong to.

Mr. P. R. Rau: I was not quite sure what exactly my Honourable friend meant by "denominations". Does he mean "religious denominations"?

Mr. Lalchand Navalrai: The communities to which they belong.

Mr. P. R. Rau: Of the four officers, I understand one is a European, one is a Hindu, one is a Muslim and one is a Sikh.

BRITISH AND CANADIAN ALUMINIUM FACTORIES IN INDIA.

1217. *Mr. Lalchand Navarai: (a) Will Government be pleased to state if there are British and Canadian aluminium factories in India? If so, how many and where?

(b) Are these British and Canadian factory owners also producers of aluminium metal outside India and importers of it in India or are they interested in the producers and importers of the metal in India?

(c) Are Government aware of any competition between such British and Canadian factory owners and the Indian factories?

(d) Is it a fact that the former are able to sell their pots at low rates in relation to the cost of the metal owing to their being manufacturers of the metal and also factory owners in India?

(e) Is it a fact that formerly Indians controlled nearly 85 per cent of the utensils-manufacturing trade of India whereas now they have barely 15 per cent?

(f) If not, what is their present percentage?

(g) Are there any foreign importers other than British and Canadian foreign importers of aluminium metal in India?

(h) Do Government propose to ask the Indian Legislative Assembly to give fiscal preference to the import of British and Canadian aluminium metal?

(i) Has it been represented to Government that such preference will injuriously affect the already suffering Indian factories of aluminium materials?

The Honourable Sir Joseph Bhoré: (a) It is understood that there are British factories in India manufacturing aluminium-ware, but the Government of India are not yet in possession of complete information as to the number and locality of such factories.

(b) The Government of India have no information regarding the relationship, if any, existing between these British manufacturing interests, on the one hand, and the producers of aluminium metal outside India and importers of the metal into India, on the other hand.

(c) Presumably there is competition between all aluminium-ware factories manufacturing the same classes of goods.

(d) The Government of India have received representations from the owners of certain aluminium-ware factories in India, which contain a statement to that effect.

(e) The representation to which I have referred contains a statement to that effect, but the Government of India are not as yet in a position to say whether it is correct.

(f) The Government of India have no information.

(g) Yes.

(h) The Honourable Member is referred to Schedule F of the Trade Agreement made at Ottawa from which he will observe that preference on aluminium circles, aluminium sheets and other aluminium manufactures (except unwrought ingots, blocks and bars) of United Kingdom origin is included in that Agreement.

(i) Yes, in the representation to which I have already referred.

Mr. Lalchand Navarai: Have the Government of India given any reply to the representations of these manufacturers?

The Honourable Sir Joseph Bhoré: No, Sir. Representations were, to the best of my knowledge, only recently received.

Mr. Lalchand Navarai: Are the Government of India inquiring into the matter with a view to giving them a reply?

The Honourable Sir Joseph Bhoré: They will most certainly inquire into it.

Mr. S. G. Jog: Is it not a fact that now-a-days there is a tendency among these foreign works to establish their industries in India either with a view to avoiding or to evading the increased tariff?

The Honourable Sir Joseph Bhoré: Sir, it is difficult for me to say what the tendency is.

Mr. S. G. Jog: Have not the Government of India noticed that Japanese industries are trying to establish themselves in India?

The Honourable Sir Joseph Bhoré: I am afraid I cannot give my Honourable friend any definite information on that point.

Mr. S. G. Jog: In view of the menace threatening India's interests, will Government make inquiries and take timely steps?

The Honourable Sir Joseph Bhoré: What steps does my Honourable friend suggest that the Government of India should take?

Mr. S. G. Jog: All steps necessary to check the growing evil, if it is an evil, affecting Indian industries.

Mr. B. Das: Do the Government of India at present possess any machinery whereby they can discriminate between British and empire capital, on the one hand, and Indian capital invested in Indian industries?

The Honourable Sir Joseph Bhoré: Not that I am aware of.

Mr. B. Das: Is not that the purport of the representation that the Government of India have received from certain firms in Bombay?

The Honourable Sir Joseph Bhoré: I think that is what it would amount to in effect.

Mr. B. Das: Is not that a subject-matter which particularly concerns the Round Table Conference?

The Honourable Sir Joseph Bhoré: I have no doubt that that is one of the matters which may be discussed at the Round Table Conference.

Dr. Ziauddin Ahmad: Will Government be pleased to inquire whether Japanese or other Governments are establishing their factories in India, and, if so, is it not a fact that the whole question of the Ottawa Agreement and of the preferences given there becomes a farce?

The Honourable Sir Joseph Bhore: May I suggest, Sir, that that question does not arise out of this question.

Mr. S. O. Mitra: May I ask whether the Ministers in charge of industries in the provinces were consulted in this matter—in regard to aluminium?

The Honourable Sir Joseph Bhore: I have promised my Honourable friend that we shall make inquiries in regard to this matter of aluminium.

**BRITISH AND CANADIAN FACTORIES IN INDIA MANUFACTURING UTENSILS
MADE OF COPPER, BRASS, GERMAN SILVER, ETC.**

1218. ***Mr. Lalchand Navalrai:** (a) Will Government be pleased to state if there are any British and Canadian factories in India manufacturing utensils made of copper, brass, German silver, etc.? If so, how many, and where?

(b) Do Government propose to ask for Imperial preference to the aforesaid metals or utensils imported into India?

The Honourable Sir Joseph Bhore: (a) Enquiries are being made but full information is not yet available to the Government of India.

(b) No, Sir. But the Honourable Member will observe from Schedule F of the Trade Agreement made at Ottawa that these metals and manufactures of some of them are included in the list of articles on which under that Agreement preference is to be given to the United Kingdom.

CANTEEN CONTRACTORS' SYNDICATE AT KARACHI.

1219. ***Mr. Lalchand Navalrai:** (a) Will Government be pleased to state if a Canteen Contractors' Syndicate was started at Karachi as a temporary post-war measure?

(b) Since how long has it been in existence and for what purposes?

(c) Are Government aware that the said Contractors' Syndicate are forbidding all the Contractors from purchasing goods from the Bazar dealers even if they do not carry the goods with the result that the Contractors cannot supply the goods to the soldiers and, at the same time, the Indian merchant also loses the business?

(d) Are Government aware that the Canteen Contractors' Syndicate are threatening and coercing different manufacturers and merchants to give them special terms, otherwise they would strike them off their list and thus make them lose the soldiers' trade?

Mr. G. R. F. Tottenham: (a) A syndicate was formed with headquarters at Karachi, but not as a temporary post-war measure.

(b) The Canteen Contractors' Syndicate was formed in January, 1928. Its main objects are to ensure that articles sold in canteens are of good quality, and to provide, in peace, an organization which can be relied upon to maintain an efficient canteen service in war.

(c) One of the rules of the Syndicate, to which all unit contractors belong, and of which they hold all the shares, is that members must purchase certain specified goods from the Syndicate alone.

(d) No, Sir.

Mr. F. E. James: May I ask the Honourable Member as to whether Government do not consider that the terms of the agreement entered into by the Syndicate with its members are in restraint of trade?

Mr. G. R. F. Tottenham: That, Sir, is a matter of opinion. But these terms are not a matter in which Government are primarily concerned. They are chiefly for the Syndicate themselves.

Mr. F. E. James: May I ask one more supplementary question? Is there any connection, direct or indirect, between the Honourable Member's Department and this particular Syndicate, or has there ever been any such connection?

Mr. G. R. F. Tottenham: If the Honourable Member will wait for the answer to the next question, I shall explain what connection there is between the Army Department and the Syndicate.

Mr. Lalchand Navalrai: Will the Honourable Member be pleased to state if the agreement with this Syndicate stipulates that this Syndicate has to remain permanently?

Mr. G. R. F. Tottenham: I would like notice of that question.

Mr. Lalchand Navalrai: The Honourable Member said that it is not temporary and, therefore, the Honourable Member must be in possession of the very terms of it?

Mr. G. R. F. Tottenham: The Syndicate is not a temporary arrangement. But whether the existing terms are due to be revised after a particular period, I do not know, and I should like to have a notice of that. The idea is that the organisation itself should be permanent.

CANTEEN CONTRACTORS' SYNDICATE AT KARACHI.

1220. ***Mr. Lalchand Navalrai:** (a) Are Government aware that the Canteen Contractors' Syndicate, Karachi, have written to different makers not to give agencies to Indian merchants but only to European houses?

(b) If not, have Government devised any means to safeguard the interests of Indian merchants? If so, what?

(c) Which is the Government controlling authority over the aforesaid Contractors' Syndicate?

(d) Do Government propose to issue instructions to the controlling authority to take measures to safeguard the interests of the Indian merchants and to remove their aforesaid grievances?

Mr. G. R. F. Tottenham: (a) No, Sir.

(b), (c) and (d). Government have nothing to do with the management of the business of the Syndicate and can only interfere in the event of a serious disagreement between the Managing Director and the Board of

Directors on a matter affecting the welfare of the troops or the interests of Government. Apart from the Managing Director, who is nominated and paid by Government the Board consists of a Chairman and 18 Directors, all of whom are Indians. Government have no reason to believe that any measures are necessary to safeguard the interests of any merchants who may be desirous of doing business with the Syndicate.

Mr. Lalchand Navalrai: Do not Government consider that it is important to inquire into a complaint like the one shown here in part (a) of the question?

Mr. G. R. F. Tottenham: No, Sir.

Mr. Lalchand Navalrai: Why not?

Mr. G. R. F. Tottenham: Because Government could take no action on the inquiries when they had been made.

Mr. Lalchand Navalrai: Even though they write to the different makers not to give agencies to Indian merchants, Government think that it is not their duty to interfere.

Mr. G. R. F. Tottenham: I am speaking, Sir, from the point of view of the Army. As long as the Army are not affected and as long as Government are not affected, they are not concerned. The Syndicate is a business concern run by Indians and if they choose to issue such orders, Government cannot interfere in the matter.

Mr. Lalchand Navalrai: Do not Government feel that it is necessary and is but fair to the public that such matters should be under the superintendence of a Government officer who has got to deal with them?

Mr. G. R. F. Tottenham: No, Sir, not necessarily. I think the existing arrangement is a fair one.

Mr. F. E. James: In view of the fact that the Managing Director is nominated and paid by Government, will the Honourable Member make inquiries as to whether the terms of the agreement between the Syndicate and its members are not in effect a restraint on the ordinary trade?

Mr. G. R. F. Tottenham: I will certainly make inquiries from the Managing Director if the Honourable Member so wishes. I will send a copy of these questions and answers to him for his opinion.

Diwan Bahadur T. Rangachariar: Do I understand the Honourable Member to say, with reference to the answer to clause (a) of the question, that Government do not consider it expedient that they should interfere when Indian merchants are being boycotted?

Mr. G. R. F. Tottenham: No, Sir, that is not my point. The question was:

"Are Government aware that the Canteen Contractors' Syndicate, Karachi, have written to different makers not to give agencies to Indian merchants but only to European houses?"

I answered that in the negative, i.e., I was not aware of it. The Honourable Mr. Lalchand Navalrai asked me whether I would make inquiries and I said that I did not think it necessary, because, even if we did make inquiries, under the terms of the agreement, we could take no action on them. The matter is left entirely to the Syndicate and its members.

Diwan Bahadur T. Rangachariar: Am I to understand that Government do not consider it necessary to inquire whether it is a statement of facts or not? They do not consider it their duty to do so?

Mr. G. R. F. Tottenham: Not from the point of view of the Army, Sir.

Diwan Bahadur T. Rangachariar: Army is part of the Government as a whole and I wish to know what the Government policy is in the matter?

Mr. G. R. F. Tottenham: The Government policy is to leave the management of this Syndicate to the members of the Syndicate themselves.

Diwan Bahadur T. Rangachariar: Does the Honourable Member think that the Indians in this case who gave such an order must have been induced to do so by other authorities?

Mr. G. R. F. Tottenham: I see no reason whatever to believe that, considering, as I have said, that the Board of Directors consists of 19 members, of whom 18 are Indians.

Diwan Bahadur T. Rangachariar: There are Indians and Indians. Will Government consider it necessary now to make this inquiry to find out whether it is a fact?

Mr. G. R. F. Tottenham: I have already told my Honourable friend, Mr. James, that I am prepared to send a copy of these questions and answers to the Managing Director.

Mr. Lalchand Navalrai: Will it be with a view to giving information to the Army officers only or with a view to giving an answer to us?

Mr. G. R. F. Tottenham: A copy of the questions and answers will be sent to the Managing Director for any action that he may think fit.

Mr. Lalchand Navalrai: The point is that, if the Army Department is not going to interfere in this, the Government of India might be asked to do so and it will be the Army Department through which these inquiries will have to be made in order to afford facilities for the particulars to reach the Government of India. Will the Honourable Member do it from that point of view or treat the question in a military style?

RECOMMENDATION OF THE WHITLEY COMMISSION IN REGARD TO THE DISCHARGE OF RAILWAY EMPLOYEES CONSIDERED MEDICALLY UNFIT FOR ONE CLASS OR GROUP AT A PERIODICAL EXAMINATION.

1222. *Mr. K. P. Thampan: Will Government be pleased to state:

- (a) whether they are aware of the fact that the Whitley Commission have expressed the view that Railway employees, considered medically unfit for one class or group at a periodical examination, should be found work of some other character suitable for them without being discharged; and
- (b) whether the Railway Board have accepted that principle and have issued instructions to Company Railways to give effect to that principle; if not, why not?

Mr. P. R. Rau: (a) The Royal Commission on Labour have recommended that if a worker is considered medically unfit for the post held by him at the time of the periodical medical examination every effort should be made to find him other work of which he may still be capable.

(b) The principle of this recommendation is in conformity with orders already in force. Government propose to instruct State-managed Railways, and invite Company-managed Railways, to continue to follow that principle.

RULES FOR THE POSTING OF RAILWAY EMPLOYEES TO MALARIAL AND OTHER SICKLY STATIONS.

1223. *Mr. K. P. Thampan: Will Government be pleased to state:

- (a) whether there is any definite set of rules for the posting of railway employees to malarial and other sickly stations; and
- (b) whether Government are prepared to issue instructions to the effect that a man who has done his turn at a malarial station ought not to be posted again to another sickly place?

Mr. P. R. Rau: (a) Government have no information.

(b) Government do not consider the issue of general instructions of this kind necessary.

CASE OF ONE MR. B. N. SARMA, AN EMPLOYEE IN THE CATERING DEPARTMENT OF THE MADRAS AND SOUTHERN MAHRATTA RAILWAY.

1224. *Mr. K. P. Thampan: Will Government be pleased to state:

- (a) if it is a fact that one B. N. Sarma, an employee in the catering department of the Madras and Southern Mahratta Railway, who was discharged, put in an appeal and was restored to his appointment and promised the "first vacancy" in the catering department;
- (b) whether it is a fact that although he was promised to be taken back to service in November, 1930, he has not yet been re-appointed;
- (c) whether it is not a fact that all the retrenched hands of the catering department were provided with appointments in other departments;
- (d) why this employee was not put along with the retrenched men and taken in turn; and

- (e) whether it is a fact that recently four new outsiders were recruited to the rank or post of ticket inspectors in Hubli district, while old promises still remained unredeemed?

Mr. P. R. Rau: Government have no information. The matter is one with which the Railway Administration is competent to deal. A copy of the question and reply will be sent to the Agent of the Madras and Southern Mahratta Railway.

ORDERS ISSUED BY THE DIRECTOR GENERAL OF POSTS AND TELEGRAPHS FOR THE CONFIRMATION OF PERMANENT OFFICIALS IN POSTS APPOINTED TO OFFICIATE PRIOR TO THE 24TH SEPTEMBER, 1931.

1225. *Mr. S. G. Jog (on behalf of Sardar G. N. Mujumdar): Will Government be pleased to state:

- (a) whether, as stated on the 29th March, 1932, in reply to starred question No. 968, any orders were issued by the Director General, Posts and Telegraphs, for the confirmation of permanent officials in posts in which they were appointed to officiate prior to the 24th September, 1931;
- (b) if the reply to the above be in the affirmative, whether a copy of the said orders will be laid on the table; and
- (c) if the reply to part (a) be in the negative, whether steps are proposed to be taken to issue the orders immediately?

Mr. T. Ryan: As stated in the reply to part (b) of Mr. N. M. Joshi's starred question No. 968, action has been taken in respect of the confirmation of officers in posts not affected by retrenchment, but as it was found that the appointing authority to all such posts was either the Government of India or the Director-General, Posts and Telegraphs, no formal orders on the subject were necessary. As regards posts which the Heads of Circles are competent to fill, it cannot be said that any of these are not liable to be affected by retrenchment until all retrenchment measures have been completed and no orders removing the ban on permanent appointment to such posts have, therefore, been issued by the Director-General to the Heads of Circles. In this connection the attention of the Honourable Member is invited to the reply given on the 19th September, 1932, to part (d) of Mr. N. M. Joshi's starred question No. 398.

APPEALS AND REPRESENTATIONS PENDING DECISION IN THE OFFICE OF THE DIRECTOR GENERAL, POSTS AND TELEGRAPHS.

1226. *Mr. S. G. Jog (on behalf of Sardar G. N. Mujumdar): Will Government be pleased to state:

- (a) the number of appeals and representations pending decision in the office of the Director General, Posts and Telegraphs, Delhi, delayed over six months and over one year;
- (b) whether the representation for the fixation of grade position of the Town Inspectors in Bombay is pending decision over a year;
- (c) whether the Town Inspectors in Calcutta were given grade position as if they were promoted on the 1st September, 1927, ignoring their temporary reversion; and

- (d) whether Government are aware that the reversion was unjustified, that it was due to wrong interpretation of the orders of the Postmasters General, and that they are prepared now to issue instructions for restoring the Town Inspectors to their grade position which they would have held, had the reversion not taken place?

Mr. T. Ryan: (a) Over 6 months but not over a year old—9.
Over a year old—18.

These include a set of 13 identical appeals on a subject which could not be dealt with until some difficult general issues had been settled, and four others, though of a different nature, could not be settled for similar reasons.

(b) No.

(c) Yes, owing to a misinterpretation of Government instructions, but orders have since been issued for the refixation of their positions according to the dates of their actual promotion after the 1st September, 1927, to posts of Town Inspectors.

(d) A copy of the orders communicating the instructions of the Government of India to the Director-General, Posts and Telegraphs, as regards the reversions referred to is laid on the table. Government are not prepared to go beyond the concessions which these orders allow.

No. 14-P. T. E.

GOVERNMENT OF INDIA.

DEPARTMENT OF INDUSTRIES AND LABOUR,

POSTS AND TELEGRAPHS BRANCH.

Simla, the 2nd October 1932.

From

T. Ryan, Esqr., C.I.E.,
Joint Secretary to the Government of India.

To

The Director General of Posts and Telegraphs.

SUBJECT:—Appointments to the posts of Inspectors of Post Offices.

SIR,

I am directed to inform you that the Government of India have given their careful consideration to representations, submitted by you for their orders, from the All-India (including Burma) Postal and Railway Mail Service Union, from the Association of

Letter 11-PTE, dated the 5th August, 1927, from the Department of Industries and Labour, to the Director General, Posts and Telegraphs.

Letter 11-PTE, dated the 15th September, 1927, from the Department of Industries and Labour, to the Director General, Posts and Telegraphs.

Memorandum No. E. A. 279/38, dated the 11th February, 1928, from the Director General, Posts and Telegraphs, to heads of Postal Circles.

All-India Postal Town Inspectors and from individual Town Inspectors, in regard to the application

of the orders quoted in the margin; and I am to

communicate the following observations for your

information and for communication to the parties concerned.

2. The Government observe with regret that the orders issued on this subject have been differently interpreted in different postal circles with the result that in some of these the existing incumbents of the posts of Town Inspectors were displaced to an extent considerably in excess of what was contemplated. Although it cannot be admitted that the then incumbents had an absolute claim to be retained in the posts, and while the Government of India do not see their way to a complete reversal of decisions already taken and made effective, they are of opinion that some measure of special consideration is called for in favour of the displaced officials, on the occurrence of vacancies; and that a concession should be made to officials with a reasonable length of approved service in regard to exemption from the selection grade examination before confirmation. The following instructions should accordingly be given effect.

3. Previous incumbents of the posts of Town Inspectors who have not been displaced in consequence of the orders contained in Industries and Labour Department letter No. 11-P. T. E., dated the 15th September 1927 or your letter of the 11th February 1928 and who still continue in those posts, should be regarded as being on probation in the posts until such date as they pass the new selection grade examination and have been ruled by the head of the Circle concerned to be in all respects suitable for confirmation as Town Inspectors. In the case of failure to qualify for confirmation within a period of two years from the date of this letter they should be reverted to the clerical grade. As an exception to the foregoing however those Town Inspectors who have already rendered three years satisfactory service in that capacity may be confirmed in their posts at your discretion without examination; and all Town Inspectors who have already passed the examination for appointment as Sub-Divisional Inspectors and Divisional Head Clerks should also be exempted from passing the new selection grade examination.

4. As regards those incumbents of the posts of Town Inspectors who, under the operation of the orders cited above, have ceased to hold those appointments, special consideration should be paid by you, on recommendations of Heads of Circles, to the cases of these displaced officials whenever a permanent vacancy of a Town Inspectorship of a first class Post Office has to be filled in future in a Circle in which they are employed. On promotion to be Town Inspectors these officials should be considered as on probation subject to the conditions and exceptions prescribed in paragraph 3 of this letter, the period of two years mentioned therein being counted from the date of promotion.

5. The orders contained in paragraph 4 relate only to promotion in permanent vacancies amongst Town Inspectors and are not to be interpreted as imposing any restrictions on the appointment of any of these displaced officials to officiate in temporary vacancies amongst Town Inspectors or in other vacancies, permanent or otherwise, in the selection grade, provided they are suitably qualified.

I have, etc.,

T. RYAN,

Joint Secy. to the Govt. of India.

THE BENGAL SUPPRESSION OF TERRORIST OUTRAGES (SUPPLEMENTARY) BILL.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Further consideration of the motion:

"That the Bill to supplement the Bengal Suppression of Terrorist Outrages Act, 1932, be taken into consideration."

The Honourable Sir Brojendra Mitter (Leader of the House): Sir, may 12 Noon. I make a submission? In view of the ruling which you were pleased to give yesterday, I have been considering how best to express our undoubted intention that clause 5 does not trench upon the provisions of the Government of India Act and we have been considering whether to change the wording or to add an explanation to give effect to our intention. In these circumstances, I request you, Sir, to let the first item on the order paper stand over and pass on to the second item.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable the Leader of the House makes a suggestion that in view of the ruling given yesterday, Government should be given some time to consider in what form they wish to bring forward clause 5 as amended. I think the request is a reasonable one.

Sir Hari Singh Gour (Central Provinces Hindi Divisions: Non-Muhammadan): I understand that the suggestion of the Honourable the Leader of the House is that the further debate on the motion of the Honourable the Home Member do stand adjourned. If that is the intention, the Honourable the Leader of the House should formally move that motion.

The Honourable Sir Brojendra Mitter: This is a matter entirely for you, Sir, to decide. There are two items on the order paper and, for the sake of convenience, I am suggesting that the debate which was initiated yesterday to stand over and we pass on to the second item on the order paper. No motion is necessary for this purpose.

Sir Hari Singh Gour: The Honourable the Leader of the House has been long enough in this House to understand the procedure of the House. It is not within your jurisdiction, but the question is whether this House will permit the Honourable the Leader of the House or the Honourable the Home Member to adjourn the debate for which a formal motion must be placed before this House. Is he prepared to do that or not?

Mr. Gaya Prasad Singh: (Muzaffarpur cum Champaran: Non-Muhammadan): The debate should be adjourned with the consent of the House.

The Honourable Sir Brojendra Mitter: The debate has not yet commenced. Before the actual commencement of the debate, I am asking you to consider in what order you will take the business of the House which is on the order paper for the day.

Sir Hari Singh Gour: Can't my Honourable friend understand what I mean? A motion was made by the Honourable the Home Member that the Bill to supplement the Bengal Suppression of Terrorist Outrages Act, 1932, be taken into consideration. After that motion an objection was taken and that objection was upheld by you, Sir. Now, the next course for the Honourable the Leader of the House or for the Honourable the Home Member is to ask leave of this House for the adjournment of that debate. Otherwise the debate will take its course. There must be a formal motion before the House that the further debate on that motion be adjourned.

The Honourable Mr. H. G. Haig (Home Member): May I ask whether the Honourable Member, the Leader of the Nationalist Party, suggests that when once a Government motion has been taken up in the House, it has got to proceed *de die in diem* until it is finished?

Mr. S. G. Mitra (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): May I bring to your notice one practical difficulty? The next stage in the debate will be my motion that the Bill be circulated

for the purpose of eliciting opinion of the various High Courts, and that has special reference to clause 5. Now, if the whole Bill is changed by any further amendment, how can I move my motion at this stage, not knowing what the amendment will be regarding clause 5 of the Bill?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): All the amendments, of which notice has been previously given, must be regulated in terms of any ruling which the Chair may give. Having regard to the ruling which the Chair gave yesterday, Government desire to have some time to enable them to consider what their attitude will be, having regard to any amendment or alteration that they may decide to make in clause 5 of the Bill. I think the request made by the Honourable the Leader of the House is a very reasonable one and I do not see that the House can object to giving Government time to consider their position.

Diwan Bahadur Harbilas Sarda (Ajmer-Merwara: General): That request can only come in the form of a motion for adjournment. There must be a specific motion for adjournment. The Government cannot say at their sweet will and pleasure when to proceed with a motion and when not to proceed with a motion. They must ask the leave of the House to adjourn the debate and the House must give its consent.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): No unanimity is required.

Sir Hari Singh Gour: At any rate the Government must move a motion for adjournment.

Sir Lancelot Graham (Secretary, Legislative Department): This Bill has not yet been taken into consideration.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The actual position on which I should like to hear some Honourable Members is this: A motion was moved and the Chair put it before the House. After the Chair put the motion before the House, a point of order was raised. Technically the motion is before the House.

Sir Lancelot Graham: We may change our programme from day to day.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Government have not yet done so.

Mr. S. G. Mitra: That is the mistake the Government committed. This item is the first on the agenda.

Mr. H. P. Mody (Bombay Millowners Association: Indian Commerce): Sir, the point may be quite trivial and of a technical character, but the position is that the agenda paper lays down the order in which the business shall be taken up. Now that order is proposed to be changed and one item, which figures first on the agenda, is proposed to be transferred to the end of the agenda or, at any rate, after the second item is

[Mr. H. P. Mody.]

taken up and finished. Surely that cannot be done without a formal motion having been made before the House. It is not suggested that my Honourable friends on the non-official Benches are going to oppose such a motion. If I understand them aright, all that they have in mind is that the procedure requires that a regular motion for adjournment should be before the House. There is no intention of thwarting the Government's intention or to side-track the Bill by the device of refusing leave.

The Honourable Sir Brojendra Mitter: If it be necessary formally to move, then, I move, Sir, that you be pleased to take up item 2 on the order paper today, and not go on with item No. 1 today.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): It would be better if you move that the consideration of item No. 1 on the agenda paper be postponed. Then the Government can bring it on whenever they like.

The Honourable Sir Brojendra Mitter: I am quite prepared to do that. I formally move that the consideration of item No. 1 on the agenda paper be postponed.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That the consideration of item No. 1 be postponed."

The motion was adopted.

THE CRIMINAL LAW AMENDMENT BILL.

The Honourable Mr. H. G. Haig (Home Member): Sir, I rise to move:

"That the Bill to supplement the Criminal Law, as reported by the Select Committee, be taken into consideration."

Sir, the proceedings of the Select Committee have attained a certain artificial notoriety. From the very beginning, the Press took a very special interest in what are ordinarily regarded as confidential proceedings and published from day to day accounts, more or less ill-informed, of how our proceedings were going. Later on, as all Honourable Members are aware, certain Honourable Members of the Select Committee decided that they would take no further part. I do not propose, Sir, to discuss the personal matters which have unfortunately been imported into this question, though, if they are raised subsequently in the debate by Honourable Members, we have our answer and a very convincing answer and we shall not hesitate to give it.

Mr. S. G. Mitra (Chittagong and Rajshahi Divisions: Non-Muham-madan Rural): You will have it.

The Honourable Mr. H. G. Haig: Let me remind the House of the proceedings which led up to the appointment of the Select Committee: After a prolonged debate in Simla, the House, by a very large majority,

agreed to refer this Bill to a Select Committee. The objects of the Bill were to deal with the manifestations of the civil disobedience movement and, in particular, to deal with certain forms of intimidation, particularly picketing and boycotting, with certain matters connected with unlawful associations and with control of the press. On the foundation of this Bill which is before the House, which was intended to apply to manifestations of the civil disobedience movement which are apt to occur throughout India, various Local Governments have also introduced supplementary legislation in their local Councils, legislation which appears in general, though of a more drastic character than the proposals before this House, to be receiving the approval of the local Councils.

Now, Sir, I said plainly in my final speech, before the House took its vote on referring this Bill to Select Committee, that:

"I must make it clear that Government would not be prepared to accept, as fulfilling the object of this Bill, any pale shadow of the provisions which we have inserted. We must be satisfied that the efficacy of the essential powers is not impaired. Within that limitation if we can be shown that certain powers have been too widely or mistakenly drafted, we are perfectly prepared to argue that matter out in Select Committee and, I hope, reach a satisfactory agreement."

Sir, I think that we have very fully met that obligation. We have discussed elaborately, patiently, and, I hope, I may even claim, sympathetically, with Honourable Members who in many matters differed from us on points of principle and on points of expediency. We have discussed the difficulties and suggestions very fully in the Select Committee. And there is one point that I should like to make clear and that is that the objections raised and the points discussed did not all originate with those Members who might be regarded as almost definitely pledged to oppose our proposals, but were raised by various Members from all sides of the Committee. As an instance of the temper in which we examined the Bill, I should like to mention that we made some of the most important changes in deference to the arguments of those Members of the Opposition who believe that a cause is best served not by walking out, but by staying and seeing it through. It is suggested that after the four Members had left our Committee, the remainder of the proceedings was perfunctory and unreal. That is essentially not the case. We discussed with great care and elaboration the remaining provisions of the Bill and, as I have said, some of the most important changes which we have introduced into the Bill were made subsequent to the walk-out.

Now, Sir, I should like to mention very briefly, for I do not think this is the occasion for a long speech, some of the main changes that have been introduced into the Bill by the Select Committee. In the first place, possibly the most important of all, we have placed on the Bill a time-limit. As Honourable Members are aware, the Bill was introduced without any time-limit, and the view of Government was that it was reasonable that the new Governments should find themselves in possession of powers which they might require to deal with similar movements, and that, if they did not, in fact, require those powers, there was no difficulty at all in repealing them. We were pressed, however, very strongly from many quarters to impose a time-limit on these provisions which are admittedly exceptional provisions, admittedly drastic provisions; and, in deference to those views, we have agreed to put a time-limit of three years on the

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Bill. We may hope that, by the end of that time, the futility, the waste of effort, the injury to the country, both moral and economic, caused by civil disobedience, will have been fully appreciated, and the negative, destructive and non-co-operating mentality which, under the influence of success or supposed success, has been flourishing so long, will have been finally discredited; and when it has been discredited, then, Sir, let this Bill lapse. In any case within three years we hope that the decision as to the continuance or discontinuance of these provisions will lie in other hands than ours.

Coming to the specific provisions of the Bill, we made extensive changes in the definition of boycotting. In the debates in Simla, considerable objection was taken to the wide wording of the definition of boycott, and when we went into the matter in Committee, we felt that there was much force in those objections. One of the main points of criticism was the use of the words "any person in whom such public servant is interested"; I think Honourable Members will remember the point. Well, Sir, we have removed those offending words, and made more clear and definite precisely what our meaning is. In various other ways too we have defined much more clearly and closely the provisions of this boycotting section.

I come now to the next of the vital provisions of the Bill, namely, molestation or, in popular language, picketing. Here, again, we made certain changes in the drafting. But we were definitely not prepared to go so far as those who wish to give a licence to peaceful picketing. I can understand the position of those who say that picketing is a weapon on which the Congress rely and that picketing is a matter with which we should not interfere; but there is little use in agreeing to the principle of penalising and preventing picketing if, at the same time, we permit the picketers to practise those very methods which are, in fact, the most effective and the most usual. The picketer certainly in places like Bombay does not go out armed with a *lathi*: the picketer relies on very much more subtle methods and the evil that we are striking at is essentially one that is practised by means of peaceful picketing. I wish to make the position of Government in this respect perfectly clear. I quite appreciate the argument that, on the face of it, if a man merely loiters about, it is a drastic provision that he should render himself liable to punishment; but the essence of the offence is the intention; and, if that intention is established—the intention to cause any person to abstain from doing or to do any act which such a person has a right to do or to abstain from doing—our view is that the particular action by which he secures the fulfilment of that purpose is a matter of comparative indifference. The point is that we want to prevent him, by whatever methods, coercing his fellow citizens. The next point on which we had very long discussion was, what I may call the children's section, the power to order a parent or guardian to pay a fine imposed on the child

An Honourable Member: Most reasonable.

The Honourable Mr. H. G. Haig: We were able to convince the members of the Select Committee that these provisions were not in fact so unusual and unprecedented as had been suggested in the course of our

debates in this House and that, in fact, very similar provisions existed in certain provinces already in the form of Children's Acts. But we did make certain substantial modifications in that section in deference to the arguments placed before us. In the first place, we made it clear that a parent or guardian could show in his defence that he had not conduced to the commission of the offence by neglecting the control of the offender . . .

Mr. B. B. Puri (West Punjab: Non-Muhammadan): That is, he has to prove the negative.

The Honourable Mr. H. G. Haig: That is, in fact, a provision which is already contained in the Children's Acts to which I have just referred. In the second place—and this is a point to which I think Honourable Members in the debates in Simla attached considerable importance—we have eliminated the provisions which authorised a Court to sentence the parent or guardian to imprisonment in default of fine. Therefore, the liability of the parent or guardian is merely to pay a fine and he cannot, in default of payment, be sent to jail. Then, it was again argued, I think the point was made by the Honourable the Leader of the Nationalist Party, that we were laying down a number of offences some of which would require to be dealt with by experienced Courts, because difficult points of interpretation would arise and that we were allowing them to be tried by third class Magistrates, Honorary Magistrates—any Magistrate. We have met that point by providing that all the offences under this Bill should be triable only by first class Magistrates or Presidency Magistrates. We have also agreed to make a number of offences which we had proposed should be non-bailable, to make them bailable. Then we have made very extensive changes in the provisions relating to forfeiture of movable property of unlawful associations and forfeiture of funds. It was argued that it was an arbitrary procedure to forfeit property and funds merely on the order of the executive authority and to allow the aggrieved party no opportunity of proving before a Court that in fact the property or the funds were not liable to forfeiture. We have met that by providing that any aggrieved party should be allowed to make a claim that the property or funds were not liable to forfeiture and that such claim would be adjudicated upon by the District Judge and that his decision should be binding on the executive authority. Those are, I think, the main substantial alterations that we have made in the Bill, though a number of other changes have also been made. I can assure the House that we went into this Bill in a very thorough and careful manner, that both parties in the Committee discussed the provisions with great care and elaboration, and I feel myself that though we have changed a number of the provisions, which Government originally thought it wise to put into the Bill, I feel on the whole that the Bill, as it has emerged, is a more reasonable measure than it was when it went into the Select Committee; and I feel that it is one which we can confidently commend in these very special circumstances, admitting that it is a measure for exceptional conditions arising out of exceptional conditions, that it is a measure with drastic provisions—bearing all that in mind—that it is a measure which we can confidently command to the acceptance of the House. Sir, I move.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Motion moved:

"That the Bill to supplement the criminal law, as reported by the Select Committee, be taken into consideration."

Shaikh Sadiq Hasan (East Central Punjab: Muhammadan): Sir, I beg to move:

"That the Bill, as reported by the Select Committee, be circulated for the purpose of eliciting opinion thereon."

Sir, after the overwhelming defeat which we received at Simla on this very issue, I suppose the Government and some of my colleagues would be thinking that it would be a waste of breath to fight on the same point again, but I think the question is of such a momentous character that it is the duty of every patriot to fight every inch of ground and not to yield to the bureaucracy in this matter. ("Hear, hear" from the Nationalist Benches.) Indian opinion is naturally very strong against this measure as we see it expressed in the press and if there are no demonstrations at the present moment, it is not on account of lack of will on the part of the people, but on account of the lack of leadership, because most of the leaders are in jail now.

Sir, I would also like to point out one thing more. During the last Session, Government secured a big majority, and they also secured the votes of a number of elected Members. I am sure, Sir, that if the Swaraj Party had not made the foolish mistake of remaining out of the Assembly, the result would have been quite different. (An Honourable Member from the Nationalist Benches: "It is quite true.") Sir, I stand for the suppression of violence, and I am sure that nobody in this House likes to see India plunged into anarchy. We have read a good deal about anarchy in China where, in certain provinces, neither human life nor property nor woman's honour is safe. We do not want such conditions to be produced here, and, in opposing this Bill, certainly we must not be regarded that we want to encourage or propagate that sort of anarchy. Our only object is to save the liberty of thousands of people who are bound to rot in jails. I think a drastic measure like this, which we consider to be a very dangerous measure, because it wrecks the lives of thousands of innocent people, should be circulated before it becomes a piece of legislation.

Sir, I have got three reasons for asking the Government to circulate this measure, and I shall be really glad if any one were to convince me otherwise. My first reason why this Bill should be circulated is this, that even in ordinary matters public opinion is consulted, and this matter is not an ordinary matter. It is a very very important matter, and so why should not public opinion be consulted on such a momentous question as this? The Government are not infallible. They have themselves made several alterations in this Bill, and in certain clauses quite extensive alterations too. If such is the case, is it not possible that more alterations might be made if the public opinion, the Local Governments and the High Courts are also consulted? The Opposition believes that some great changes are required before this Bill becomes acceptable to the country. At the present moment I consider that it is of such a type, that it simply strangles the liberties of the people.

Now, Sir, as regards consultations, there are generally three bodies which are consulted, namely, the Local Governments, the public bodies and the High Courts. As regards the Local Governments, perhaps the Government may say that they already know the point of view of the Local Governments, and that they also hold a similar opinion as held by the Government of India. As regards public bodies, perhaps Government might also say that they know that their opinion is against this Bill, that they will oppose it, but certainly the Government of India do not know what amendments the public bodies will suggest. If the public bodies are against this Bill, at least it will show that public opinion is definitely against this Bill, and, if some of the public bodies are in favour of this Bill, then, certainly, it would strengthen the case of Government. Therefore, Government need not be in the least apprehensive to elicit public opinion.

Then, there remains that august body, the High Court, which is to administer the law. After all, it would not harm the Government if they were to consult the High Court also in this matter.

Then, the second point which, I consider, is not of less importance, is that people should be fully informed as to what this measure is. If this Bill is circulated, it will be discussed threadbare in the papers, both English and vernacular; it will be sent to the Municipalities where also it will be discussed before the public, and thus the public will be fully informed of this Bill. There is an axiom of law that every one is expected to know the law, and, in this case, that axiom also applies, and if this Bill ever becomes law, without the people knowing it thoroughly, I am afraid that many people will be punished without knowing what the Bill is. Certainly, it should not be the object of Government to terrorise the people or to punish the people who are ignorant of the law. It may be urged on behalf of the Government that by the time the Bill is circulated, the time of the Ordinance would lapse and then there would be lawlessness and perhaps anarchy in the country. Although the movement is on the decline, I do not believe even for a minute that in a month's time after the expiry of Ordinances, anarchy would set in the country, but assuming such a thing happens, which is not at all likely, Government have got the power of issuing these Ordinances again, or they can extend the life of these Ordinances, for another couple of months.

Then, there is a third point. Is it fair on the part of this Government to force this measure on the new Assembly? The Honourable the Home Member said that he was going to make a present of it. I am afraid it is not a noble present, but quite an ignoble present. We have been told that the new Assembly will be elected under a new constitution and it will be more responsible in that it will have more powers. Well, if they are going to have larger powers, if the new Assembly is going to be more representative in character and the Government nominated element is going to be very small

An Honourable Member: They will be eliminated altogether.

Shaikh Sadiq Hasan: then I am sure the new Assembly would like to cancel this piece of legislation, but it would not be such an easy thing for that Legislative Assembly to cancel it, because they will have to come into conflict with the Council of Elders who are bound to be as conservative

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as they are in all the countries of the world. I do not think that it is really fair that this Government should present the new Assembly with a measure which they would like to cancel, and they would not be able to do so, because of the conservatism of the Council of State. Then there is His Excellency the Governor General who would always have the right of vetoing, and, I submit, he may exercise it on that occasion.

Finally, I would like to make an appeal, not to the Government, because they have definitely made up their mind, but to the elected Members who represent the people, not to harden their hearts against their own countrymen and try to strangle the liberties of the people of their own country. (Cheers.)

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Amendment proposed:

"That the Bill, as reported by the Select Committee, be circulated for the purpose of eliciting opinion thereon."

Mr. B. Das (Orissa Division: Non-Muhammadan): I rise to support the motion moved by my Honourable friend, Shaikh Sadiq Hasan, and I congratulate him on the admirable restraint with which he spoke. That should have convinced my Honourable friend, the Home Member, how sincere is the feeling on this side. If one compares the Select Committee report that has been circulated to us with the original Bill, as introduced by my Honourable friend, one does not see any similarity between the two, and the very fact that four of my colleagues had to run away, because they were so ill-treated and not able to do their duty by this country, shows that the report of the Select Committee contains something so drastic that it must be circulated to the country and we must have opinions thereon from the people of this country before we can legislate a measure of this character. I do not wish to comment on the press controversy that has arisen over the walk-out of my Honourable friends. I myself think that they were justified in walking out, but on one point I do not agree with them, where they say that the Chairman could have been more impartial. Sir, in a Select Committee where the Law Member, who is a representative of the Cabinet, presides, is anybody so gullible as to expect that the Law Member would not say, "My vote is with the Government", and I should have liked that portion not written at all!

I am grateful to the Honourable the Home Member to hear again today his considered views on the civil disobedience movement. My Honourable friend said that it is the negative, non-co-operating destructive mentality that is causing all the trouble. Most of us have been trying to advise the Government that there is a way to end the civil disobedience movement. The other day we asked, in a short notice question, why Maulana Shaukat Ali was not allowed to see Mahatma Gandhi. Had he been allowed, probably the civil disobedience movement would have existed on paper, and it would not have existed today in practice. Sir, I gave notice of a short notice question to my Honourable friend, the Home Member, but he could not see his way to accept it, and it will be replied to in due course. What was the effect of Lord Sankey's statement that was published in the *News-Letter* in London? Everybody expects that if the Government of India bring themselves into a co-operating mentality, if

they could find ways and means of making Mahatma Gandhi to co-operate in the bigger political issues—not in smaller issues such as identifying the interests of caste Hindus with depressed classes, wherein I must thank the Government for the little help they gave to Mahatma Gandhi to bring the Hindu community to an understanding—if they bring themselves into that frame of mind and allow Mahatma Gandhi to help us—I may add that at the Allahabad Conference, if press reports are true, they have already come to certain definite agreements between the two great communities that live in India, the Hindus and Muslims. But where is that prince of unity, Mahatma Gandhi? Why is he not out today from the Yaravda prison, so that he can advise, counsel, and bring about the best relations between the two great communities that live in India? I avail of this opportunity, Sir, to quote what Lord Sankey said. He wants Mahatma Gandhi to co-operate, and his principle of co-operation is this:

"Co-operation cannot mean that a man gets immediately all he wants, but it means that he gets infinitely more than he could from a fight to the finish."

Sir, that spirit of co-operation has made me to remain a Member of this House when I did not join Mahatma Gandhi at the end of 1930 in the civil disobedience movement. I am here to co-operate with my Honourable friends on the Treasury Benches to get whatever little I can get by friendship and co-operation with them. Why does not my Honourable friend, the Home Member, who, I think, respects Lord Sankey, accept that principle of co-operation, and allow Mahatma Gandhi to co-operate with the British Government? And when Mahatma Gandhi co-operates, civil disobedience would vanish and there will be a spirit of reconciliation and co-operation all over. In view of the fact that Lord Sankey is a member of the British Cabinet and also a member of the Third Round Table Conference, I shall quote one or two more sentences from his letter:

"Gandhi has power to change the situation and can do much to restore peace. . . . I believe that if Gandhi made a great gesture and dropped the weapon of civil disobedience and, with his followers, offered to co-operate with the British Government, the whole situation would be transformed."

I do think that Mahatma Gandhi will make this gesture. When noble-hearted leaders like Maulana Shaukat Ali asked for permission to go and confer with Mahatma Gandhi, my Honourable friend would not permit them. I make an offer. Will the Honourable the Home Member depute two or three of us to go to the Yaravda prison to negotiate with Mahatma Gandhi to end the civil disobedience movement? But if my Honourable friend means that Mahatmajji should come on bended knees and say: "I made a mistake. Civil disobedience is wrong", then Mahatma Gandhi will never do that. No honourable man will ever do that. Let this Government and the British Government accept his intentions, and let them know that an honourable promise given by that great man, the greatest man of the world, will be fulfilled by him if he is allowed to come out of the Yaravda prison to negotiate with the Government.

Sir, this Bill aims at legislating for four things. One is the suppression of terrorist crime. I have often expressed my views about terrorist crimes and I entirely agree with what my friend, Mr. Sadiq Hasan, said about the suppression of terrorist crimes. My friend would have been well advised to divide his Bill into four parts and bring only a Bill for the

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suppression of terrorist crimes, as he has done in the case of the Bengal Terrorist Bill which had to be postponed this morning, because Government did not see the implications of their bad drafting. By all means being out a Bill for the suppression of terrorist outrages and I will be the first from this side to support that measure; but if Government, in the name of terrorist crimes, try to condemn civil disobedience movement and suppress peaceful picketing as part of terrorist crimes, and suppress the Indian Press, no honest man, no Indian can support any measure of that kind.

Mr. R. S. Sarma (Nominated Non-Official): Why do you support circulation? Oppose it.

Mr. B. Das: My friend, Mr. Sarma, seems to think that in supporting circulation I accept the principle of the Bill. Certainly not. By circulation the eyes of the Government will be opened and they will realise the intensity of feeling in the country and the mistake they have made in bringing out this measure.

Mr. K. Ahmed (Rajshahi Division: Muhammadan Rural): In the meantime Mr. Das will come back from London. (Laughter.)

Mr. B. Das: I would advise my friend, the Home Member, to note the significance of statements issued from time to time by great Congress leaders, by Mr. C. Rajagopalachariar, the Acting President of the Congress. I belong to the right wing of the Congress and I would like to repeat here what Mr. Rajagopalachariar wrote on this particular legislation. I think it may gladden the heart of my friends. Mr. Rajagopalachariar says:

"It would be rash to prophesy how long the struggle would last, for the Congress is an extensive organisation commanding sympathy even outside its own ranks" said the Viceroy, but he did not care to consider the secret of Congress strength or of the sympathy it commands or why it is so obstinate in its policy of resistance in spite of such great suffering. If he did, he would have stumbled on the essential justice of the Congress cause and perhaps also on the futility of coercion on Government's part. Failure of its policy of coercion, though tried through two successive periods, being admitted, the height of statesmanship to which the Government could rise is a third renewal. (If the House sanctions it, it will be for three years and not six months.) The shame of this is sought to be covered by a generous offer to the coming Swaraj Government to make it a permanent feature of the law."

I cannot understand this solicitude of the bureaucratic Government for the coming democratic Government. Whatever the future Government may be, whether it is a Nationalist Government or a Swaraj Government or a Congress Government, I can assure my Honourable friend that it will not be a terrorist Government. Why does my Honourable friend doubt our acumen, that we would not legislate such a measure when the occasion arose for it? Why does he kill at one stroke the spirit of nationalism in the country, the spirit of patriotism in the country in the name of suppressing terrorist crimes and that great Congress movement which my friend, Mr. Ranga Iyer, referred to the other day as occurring in Lord Irwin's speech in this House. I do not want to read the full text of the press interview given by Mr. Rajagopalachariar, but he indicated:

"That Congress is willing to give co-operation if the right feeling is seen on the part of the British Government and the Government of India."

The Government of India and the British Government must come forward to show that they mean co-operation. Sir, Mahatma Gandhi has settled the great thorny problem between the high class Hindus and the Depressed Classes and, if he comes out, he may settle not only the problems between all the communities in India, but he may extend the hand of friendship to the British Government and he may devise a constitution whereby there will be friendship assured to England for all time, so that India may remain in the British Empire, a member of the British Commonwealth of Nations. It is no use laughing at Mahatma Gandhi. I wish to refer to the opinion of an American Missionary published in an American paper. He says:

"Mahatma Gandhi is by all odds the outstanding political genius of our day. Even as there arose in Nazareth, in the first century, a spiritual star of the first magnitude, so in that same East, in our own day, there has come forth a saint and a seer to guide the world, if we will but listen, to teach co-operative living. His way of love and courtesy in all actions, his constant practising of what he preaches and his transparent sincerity have no parallel in other lives of the great all over the world."

Sir, Mahatma Gandhi's life is an emblem of co-operative living. I do hope that Government will invite Mahatma Gandhi to co-operate and not devote their heads to devise means to suppress the civil disobedience movement.

My friend, the Home Member, talks of the new word that he has coined for peaceful picketing, "molestation". My Honourable friend, Sir C. P. Ramaswami Aiyar, on the last day he was in the House made a speech and he was unusually hard on the Congress. He said that the Congress incited women and ordered them to go and lay themselves before motor-cars and so they did picketing in that way and so on, and he began to blame the Congress. Sir, I am sorry he is not here, but in public interest I must avail myself of the present opportunity to reply to my Honourable friend, Sir C. P. Ramaswami Aiyar. Sir, the youth movement today is in evidence all over the globe. If young men or young women above fifteen or eighteen years of age or even of 30 or 40 years join the picketing movement or the civil disobedience movement, they are as good patriots as the Honourable Sir C. P. Ramaswami Aiyar. Sir, Sir C. P. Ramaswami Aiyar's statement that women are dictated by the Congress to throw themselves before motor-cars is not at all based on facts: and if Sir C. P. Ramaswami Aiyar was reflecting the viewpoint of the Government here, then I must say that the Government have misunderstood the patriotism and patriotic sacrifices of our young men and young women that are engaged today in peaceful picketing, in order not only to expand the Swadeshi movement in the country, but to make India self-supporting, and even if they do a certain amount of picketing for their political principles, none of it is done by order of a Congress leader, but it is done spontaneously by the force of sheer patriotism.

Sir, I would ask my Honourable friend to copy a chapter from the American legislative practice. My friend just now said that the parents of the offending boys or girls are only liable to pay a fine and they will not go to jail. But why fine the parents at all? Why not have a civilised piece of legislation and have juvenile Courts in India? Let juvenile Courts try these offenders—and surely they will not judge these offenders

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in the same way, in the same hard-hearted manner of our old Judges, because, Sir, as we grow older, we are lost to all sense of humanity, all sense of softness that mellows our outlook. (Hear, hear.) Sir, we are all old, except our Honourable President, and I think we all lose our youthful spirits, our sense of humanity, and our sense of justice becomes dull and hardened: and, Sir, I do suggest that if Great Britain wishes to be a civilised Government and desires to legislate in order to punish parents for the youthful exuberance of little boys and girls, let her copy the practice in vogue in America and have juvenile Courts and let these youthful picketers abide by the decisions of such Courts.

Sir, the most drastic action, if this piece of legislation be passed, will be taken against the Indian Press because the liberty of the Indian Press will be suppressed. We passed the Press Act in 1931 and we thought that Government would not seek the further help of this House. Now, again, it seeks to strengthen its hands by legislation of a rigorous nature. Now, this piece of legislation wants to control the liberty of the Press. Sir, we know how mild and how weak are the comments of the Indian Press under the Ordinances. They are not free to express their honest views, and those, who try to judge the articles of the Press, misinterpret the articles. They see wild terror in everything. Every line that is meant for honest patriotism is interpreted as inciting to terrorist crime. Sir, that is not so, and what do we find? Recently my friend, Mr. Sadanand, the Editor of the *Free Press Journal*, was asked to pay a deposit of Rs. 20,000—Rs. 10,000 as printer and Rs. 10,000 as Editor of the paper. Sir, I would like my Honourable friend, the Home Member, when he replies, to tell me whether anywhere in the world any Government asks the Editor or keeper of a press to pay such heavy fines. Sir, it is, of course, quite natural that a foreign bureaucratic Government will try to suppress the liberty of the Press, and I do not blame my Honourable friend, the Home Member. Sir, if tomorrow I become the Governor of England, probably I shall suppress the articles in the *London Times* and I shall probably close the *London Times* and sell away its printing press as the Government are doing here. (An Honourable Member: "And also the *Statesman* in India.") Sir, my Honourable friend, Mr. Mitra, reminds me to tell the House how Mr. Sadanand was punished. Sir, he was punished, because he reproduced an article on Untouchability. Sir, even articles on Untouchability are supposed to excite terrorist crimes in India!

The Honourable Mr. H. G. Haig: Sir, I am sorry to interrupt the Honourable Member. But I must point out that the action taken by the Bombay Government has nothing to do with the question of Untouchability.

Mr. B. Das: Sir, I am glad to know the facts, but that is the common impression and I wish the Publicity Department of the Bombay Government had circulated a Press Communiqué explaining why Mr. Sadanand was punished. Sir, I would again advise the Government to split up the Bill into four parts. Sir, I very much feel on any attempted encroachment on the liberty of the Press, and I was grateful to my Honourable

friend, Mr. Ranga Iyer, the other day for alluding to the little bit at my back that I got as Editor of a nationalist weekly, called *The Young India*, from the Bihar and Orissa Government for writing an article which my friend, Mr. Jagan Nath Aggarwal, quoted *in extenso* last January Session, and where I said that the Government made the wrong move and I advised His Excellency the Governor-General to drop the policy of silken tie of friendship with Madatma Gandhi so that Madatma Gandhi could co-operate to bring about peace in India, but I got a warning from the Government of Bihar and Orissa for that piece of advice that my article comes under the suspicion of infringing a certain section of the Ordinance. Sir, these of us who are looking forward to attaining, three or six months hence, full Dominion Status and full liberty for India shall oppose tooth and nail any encroachment on the liberties of the Press.

Sir, lastly, I would advise the Government—and I am a peaceful man—to bring about peace, honourable peace between India and England, even at this eleventh hour. Sir, I am sorry for my Honourable friend, the Home Member. My friend has become the Home Member for the second time, but the number of repressive measures that he has brought forward on the floor of the House must be taxing his ingenuity to the full, and I often wonder at the cherubic smile on his face! Sir, this is not the proper way to bring about honourable peace. Other methods must be explored to bring it and, fortunately, there are other methods. This is what we want. Sir, I must end my speech by referring just to one sentence from a great British statesman's speech. This is what he said:

"Peace implies reconciliation; and where there has been a material dispute, reconciliation does, in a manner, always imply concession on the one part or on the other. The superior power may offer peace with honour and with safety. Such an offer from such a power will be attributed to magnanimity."

This quotation is from Burke. Will the Honourable the Home Member and the Treasury Benches press the British Government to show MAGNANIMITY and, if they do so, there will be peace in India and there will be no occasion for the Honourable the Home Member to bring to the House legislative measures like the present one or any similar measures.

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

The Assembly re-assembled after Lunch at Twenty-Five Minutes Past Two of the Clock, Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

RESOLUTION RE TRADE AGREEMENT SIGNED AT OTTAWA.

Sir Hari Singh Gour (Central Provinces Hindi Divisions: Non-Muhammadian): Sir, with your permission, may I be permitted to ask the

[Sir Hari Singh Gour.]

House to accept two slight verbal amendments to my motion moved the other day for the appointment of a Committee of this House to scrutinise and report on the Ottawa Agreement. I find that the motion* is put down in the following words:

"That for the original Resolution, the following be substituted . . .".

But, what I intended to convey and which I did convey in my speech to the House was, that my amendment was an amendment to Dr. Ziauddin's amendment, and that being my view, these lines might be omitted.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Chair has noticed that the amendment as proposed, and which appears to have been drafted in a hurry, was contradictory and the attention of some Honourable Members was drawn to it. The explanation which the Honourable the Mover of the amendment has given just now does not fit in, because, Dr. Ziauddin's amendment also had these words and, besides, you could not amend an amendment without moving a fresh amendment to the original Resolution. The plain fact of the matter is that through oversight, the amendment, which the Honourable the Leader of the Nationalist Party moved, was framed in such a way that the first part was inconsistent with the latter part and the Chair understands that he now desires the permission of the House to put it right. I take it that the House is agreeable to allowing that amendment to be put in the form which the Honourable Member has just pointed out. I take it that there is no one who wishes to dissent.

(No Honourable Member dissented.)

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Permission is granted.

THE CRIMINAL LAW AMENDMENT BILL.

Mr. Goswami M. R. Puri (Central Provinces: Landholders): Sir, I beg to move:

"That the Bill, as reported by the Select Committee, be recommitted to the same Select Committee with instructions to report on or before the 24th November, 1932."

Sir, the amendment which I have just now moved is not intended to delay the passing of this Bill. At the outset, I wish to make my position clear when I say that I have given notice of the motion not with the idea of putting forward a dilatory proposal for gaining time or shelving the question, but with the idea of giving the representatives of this House, consisting of both the Treasury Benches as well as of the Opposition, to put their heads together once more to find out a *via media* and a common meeting ground. Sir, everybody is aware of the circumstances under which the report of the Select Committee has

*Vide p. 1958 of L. A. Debates, dated 10th November, 1932.

been presented to this House. It is probably the first report of a Select Committee on a Bill where practically every Member has put in a Minute of Dissent, including the Government Members. In this report, the question of a majority or a minority report does not arise. The report, as presented before the House, is practically a report of the two Honourable and learned Members who have put their signatures to it without presenting any Minute of Dissent and these two are my Honourable friends, Sir Muhammad Yakub and Mr. Muhammad Yamin Khan. Now, Sir, the circumstances, under which certain Members of the Opposition walked out as a protest against the procedure adopted by the Chairman in putting the question to the vote of the Committee, are widely known. I take the words of the Chairman as quoted in page 3 of the Minute of Dissent signed by Messrs. Jadhav, Jog, Muhammad Azhar Ali, Gaya Prasad Singh and Mitra and the words are as follows:

"Of course, my vote is with the Government."

Sir, to my mind, if the Chairman did utter these words, it clearly shows that he was always predisposed and biased to put his casting vote on the side of the Government and, in the absence of any contradiction from the Chairman to the contrary, I take it that the statement as quoted above is correct.

The Honourable Sir Brojendra Mitter: I may tell the House that that statement is absolutely untrue.

Mr. S. C. Mitra: We protest. The statement of the Leader of the House is not correct.

Mr. Gaya Prasad Singh (Muzaffarpur cum Champaran: Non-Muhammadian): What the Honourable Leader of the House says is wrong.

Mr. B. R. Puri: The Honourable the Leader of the House makes a belated statement.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): I do not know whether this controversy need be pursued.

Mr. S. C. Mitra: Is it fair for the Honourable the Leader of the House to express his views in this way?

Mr. B. R. Puri: And at the eleventh hour.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question of what happened in the Select Committee is outside the scope of this discussion. Reference may, however, be made to certain special points, as the Honourable the Mover has himself referred to certain aspects of the proceedings of the Select Committee. That will be allowed, but in all

[Mr. President.]

such cases where a charge of this kind is made against an Honourable Member and he contradicts it, the House usually accepts the contradiction. (Applause.)

Mr. Goswami M. R. Puri: I think the House will agree with me that the best course will be to refer the Bill again to the same Select Committee giving the Members and the Chairman another chance to adjust their views and feelings in the light of the Minutes of Dissent and the press statements appearing in the names of the different members of the said Select Committee. I think, now, that the Government know the feelings of the members of the Opposition, and they will make an earnest effort to find out ways and means by which the same circumstances may not recur in the Select Committee if my motion is adopted. In view of the facts appearing in the press from time to time in regard to the proceedings of the Select Committee, this House has been put in a very awkward position, either to vote for or against the whole Bill. I feel that when all the clauses of the Bill have been retained only on the casting vote of the Chairman, it is practically a one-man made law which has emerged from the Select Committee, and as such the report of the Select Committee cannot be accepted as a valid report at all but may be taken as an Ordinance, not by His Excellency the Governor General but only by a Member of the Executive Council of His Excellency the Governor General.

In conclusion, I say, that this House would have taken up the consideration of the clauses if the Bill had not been referred to any Select Committee at all, but, now, after the regrettable incidents which have occurred in the Select Committee, I would appeal to my colleagues and friends to accept my motion that the Bill be recommitted to the same Select Committee.

Mr. K. P. Thampan (West Coast and Nilgiris: Non-Muhammadan Rural): Sir, having given notice of a similar amendment I wish to support this motion, and, in doing so, I shall be as brief as possible. Constituted as the Select Committee was, we find, most of the questions were decided by the casting vote of the Chairman. Sir, I have nothing to say against the Chairman, the esteemed Leader of the House; anybody else in his position would have done the same thing. The casting vote is vested in the Chairman to be exercised in such emergencies, and it is only natural he should have done so. But it is a sad thing that it was with the help of his casting vote many important questions were decided. There are other matters with which I am not satisfied, for instance, the amendment on peaceful picketing. Mr. Anklesaria's amendment was over-ruled. Then, Sir, four of the Members of the Committee walked out; of course it is up to them to justify their attitude before this Assembly. I am sure they will make a full statement now. But on account of their walk out, the voting strength of one party was substantially reduced from seven to three, with the result that practically the decisions of the Select Committee have been,—I will not say one-man's decisions, as my friend, Mr. Puri, said,—More or less one-sided. That was certainly very undesirable. Sir, to say the least, I feel, as many others on this side feel, that the Select Committee has not been able to bestow that careful and adequate consideration which the Assembly expected them to do. I

have, therefore, great pleasure in supporting this motion for recommitment of the Bill to the Select Committee.

Pandit Satyendra Nath Sen (Presidency Division: Non-Muhammadan Rural): Sir, I rise to support the motion for circulation moved by my Honourable friend, Mr. Sadiq Hasan. Sir, I am induced to speak a few words on this Bill, because it is a Bill which makes even a dead man open his lips; and, at the same time, I am induced not to open my lips on this Bill, because I know that wasted are words that are sure not to be listened to. Sir, it is a common practice that whenever a Bill is placed before this House, it is usually sent out for circulation. That is true even in the case of innocent and petty Bills and I do not see why there should have been any departure in the present case from that practice. This is a Bill which seeks to enact extraordinary laws and it ought to have been sent out for circulation. Sir, I think we will not be late in sending it out even at this stage, because we have been told by the Honourable the Home Member that some essential changes have been introduced and improvements have been made. So it would have been sheer waste of time and energy if the House had sent for circulation the original rubbish. Sir, if I may be permitted to speak out, I should say that Ordinance or no Ordinance, Government cannot go on in this way. Sir, a Government which is itself guilty of lawlessness as is being perpetrated in Bengal and in many other provinces, a Government which is guilty of terrorism as has been committed in Chittagong and some portions of the Midnapore district, a Government which does not even preserve the honour of women is sure to be paralysed. Sir, I will state only one instance mentioned by an American lady:

"Miss Erea Penner, first American woman missionary in India, in the course of a visit to some villages in the Lucknow district, issued the following statement to the press after visiting Narouma, a village in Lucknow Tahsil:

"An outrage against womanhood, showing an utter disregard for age and lack of respect for motherhood, was perpetrated last Tuesday at Narouma, when Moola, the mother of Daya Ram, was assaulted by the police. It seems that the police were searching for Daya Ram, who is sympathetic with the present civil disobedience movement. Not finding him in his home, they disregarded his mother's claim that he was not there, forcibly entered the home and broke open the wall to the grain store-room.

Not finding the son, they most indecently beat the mother with the butt-ends of their rifles. Such an outrage against an aged mother, whose one fault was mother-love, is a sad commentary upon those forces which are supposed to stand for the insurance of protection of person and property. Surely such an outrage against defenceless womanhood can indicate nothing less than authority run amok and power without sane control."—*Hindustan Times*, Feb. 1, 1932.

The Honourable Mr. H. G. Haig: Sir, will the Honourable Member kindly tell us whether any complaint was made to the Local Government about that?

Pandit Satyendra Nath Sen: I am not aware of that.

The Honourable Mr. H. G. Haig: This is the first time I have heard of the incident at all.

Pandit Satyendra Nath Sen: But it has not yet been contradicted by anybody.

[Pandit Satyendra Nath Sen.]

Sir, the clauses of the Bill, as they stand, do not sound very harsh, but this is the way in which they are to be worked by the police under the guidance of the Superintendent who is the *de facto* District Officer. And let me assure you, Sir, that atrocities, ten times more serious, are being perpetrated every day in some parts of Bengal. We have heard and heard from the Britishers of the tyranny of Muhammadan rulers; but could any tyranny surpass the tyranny that is being perpetrated at the present day by our Government in the name of law and order? The only difference is this; the past autocrat used to say "Look here; I say this. My word is law". The present autocrats say "Look here; we say this; let some elected Members bark; we are sure of our majority in the House". This is the only difference between the two autocracies . . .

Sir Abdulla-al-Mámún Suhrawardy (Burdwan and Presidency Divisions: Muhammadan Rural): Would you like to have a return to Muslim rule?

Mr. S. C. Mitra: Yes; we prefer Muslim rule; at least they are Indians.

Pandit Satyendra Nath Sen: Government admit that the civil disobedience movement is on the wane. If that is so, I should advise them to try a transition period, not to press the Bill for some time to come. Let them see how they go on without this Bill; and, as the Honourable the Home Member told us this morning, the reformed legislature is within sight. If that is so, why should they defile the Statute-book with this black Bill for this short period? I, therefore, implore the Government to take to conciliatory methods. This revengeful spirit cannot succeed. I would conclude my speech with the following lines said by Lord Macaulay:

"A people whose education and habits are such that, in every quarter of the world, they rise above the mass of those with whom they mix, as surely as oil rises to the top of water, a people of such temper and self-government that the wildest popular excesses recorded in their history partake of the gravity of judicial proceedings, and of the solemnity of religious rites, a people whose national pride and mutual attachment have passed into a proverb, a people whose high and fierce spirit, so forcibly described in the haughty motto which encircles their thistle, preserved their independence, during a struggle of centuries, from the encroachments of wealthier and more powerful neighbours, such a people cannot be long oppressed. Any Government, however constituted, must respect their wishes and tremble at their discontents."

These are words pregnant with palpable foresight and tangible truth and I would ask the Government to ponder over this side of the question and then to make up their minds.

Mr. Lalchand Navarai (Sind: Non-Muhammadan Rural): Sir, I rise to support these two amendments in the alternative. I am for circulation; but, if it fails, I would support the second amendment that the Bill should be recommitted to Select Committee. This is no doubt a dilatory motion—rather both are dilatory motions; but it is not always wise to throw away dilatory motions in order to hurry up a Bill. It is necessary in a Bill like this, which is of paramount importance and affects the country so much that to delay its passing, with moderation, or in a particular manner as is satisfactory to the country,—nothing will be lost, but everything gained.

So far as the second amendment is concerned, there is a glaring ground of which no one can get out and it is that this Bill has not been considered

by all the members of the Select Committee. I do not want to enter into the controversy which might create bitterness in this House with regard to this question that four members of the Select Committee and, prominent members I should say, came out of the Select Committee and did not take part in it. It is claimed by the Honourable the Home Member that even after they walked out they considered the Bill all right. Is that a ground for saying that the Bill was really given full consideration when the views of these four members were no longer before the Committee? Therefore, I will not take more time with regard to the second amendment. It is only just and right that this Bill should be considered by all the members of the Select Committee. No Bill has ever been passed in which members of the Committee found it forced on them not to take part. Here we know that there was a difference of opinion on a very vital point, namely, whether peaceful picketing should be allowed or not. Peaceful persuasion was the term used then, but I use the words "peaceful picketing".

Now, Sir, as far as the first amendment is concerned, it asks for circulation. I think it will be only discreet and fair on the part of the Government to consider at what stage we are now and what is the situation and what is the atmosphere in the country. I may sum it up in one word. The time has come for conciliation rather than bringing about the end of this civil disobedience movement or, whatever of it remains now, by coercive methods. At a time when we have seen that a knotty question, a question which, at times, was considered almost impossible of solution, namely, the question of the Depressed Classes and the caste Hindus, has been patched up, and at a time when Government—I must give them credit for this—have been allowing interviews to Mahatma Gandhi in respect of that question in order to see that the question of temple entry is also amicably solved—the attitude that the Government have taken, as disclosed in certain answers to questions put in this House this Session, shows that the Government are taking a wrong attitude. The Home Member began answering—if he will excuse me the expression—in an autocratic manner by saying that because there is the civil disobedience movement, no opportunities will be allowed to Mahatma Gandhi to bring about reconciliation between Hindus and Muslims. Therefore, I submit that now is the time to take the opportunity by the forelock and Government should come forward to make easy for the civil disobedience movement being removed not by coercive measures but by conciliation and compromise. The country is ready for it and, therefore, I would submit that this is an occasion on which this Bill should not be hurried, because it is a coercive measure. On the contrary, this Bill and Bills like this will be putting up the back of those who have entered upon the civil disobedience movement and will also take away the sympathy of those people who have not launched on it and who are out to see that this movement is brought to a close. We know and it cannot be denied that the civil disobedience movement is affecting also those people and causing injury to those people who are not involved in it. Therefore, it is now incumbent on the part of the Government to cry halt and facilitate such measures as would bring about a reconciliation.

The second ground on which I would urge for the circulation of this Bill is this. It is being claimed that it will do no good to receive opinions on this Bill. That view, I submit, is perfectly wrong. In the first

[Mr. Lalchand Navalrai.]

place, the opinions that might have been asked from the Law Officers or High Court Judges and other officials are *ex parte*, at any rate we do not know what those opinions are; but they must have given their opinion at a time when the Ordinances were working ruthlessly against the people or perhaps in the very inception of the Bill that has now been brought forward here. But, since then, circumstances have changed. The assurance of Government that this Bill would be modified in Select Committee was very satisfactory, and since then certain amendments have been made, but the question is, are those amendments quite satisfactory to this side of the House? The reply to that lies in the number of amendments that are now before the House. Therefore, it is in the interest of Government themselves that they should seek further opinion from their Law Officers and Judges as to what they think in view of these further amendments.

Passing then to the question of securing public opinion, it might be said that the public opinion is already against such Bills as this, that they regard such Bills as suicidal and so on and so forth, but it will not be so, because this Bill is not in the exact form in which the Ordinances were. The Ordinances were very harsh and they were being worked very harshly, and, therefore, the public opinion was rightly against those Ordinances. Now, this Bill has been amended to a certain extent. Why should the Government think that the people are so unreasonable as to say that these amendments are not required and the Bill should not be passed wholesale at all. Because public opinion was once against these measures, it should not be anticipated that the public will not be in a mood to consider it. If the Bill is properly modified, as suggested by this side of the House, it will mean a great support to Government. The whole country is not non-co-operating. There are still co-operators who disliked the Ordinances, and if those people now advise them, it would be prudent for Government to accept their advice.

I do not want to enter into the merits of the various amendments that have been made; but I shall do so at the proper time, I shall confine myself for the present to these two amendments and say that these amendments are such that Government should accept them.

Before I sit down,—I do not think the Honourable the Home Member requires any advice from anybody, he is able in himself,—he 3 P.M. is wise too,—and I hope he will remember what his predecessor in office said with regard to the principle and usefulness of circulation of Bills. Sir James Crerar said in 1927; I am reading from L. A. Debates of 1927, Vol. V, page 4417:

"I think that before the House proceeds to consider this Bill in greater detail, it ought to pass the motion which I move for further eliciting opinion."

It was not the first motion; but it was made for a second time circulation.

An Honourable Member: What Bill is that?

Mr. Lalchand Navalrai: The Sarda Bill. (Laughter.)

There should be no laughter, because that was also an important Bill. Besides, the then Home Member has laid down a general principle which

I am reading, and Honourable Members should have patience to allow me to read it to them. This is what he says:

"Legislation which is passed without due consideration may have consequences very remote from those which are intended. I am not opposed to the main principle of the Honourable Member's Bill on merits, but I do appeal to the House to show that spirit of caution which is enjoined by Sir Purshotamdas Thakurdas, and I ask the House to accept the motion."

Sir, I again say that Government may have to pass coercive measures for combating with or for putting down terrorism, but that is certainly different from the passive resistance movement to combat which Government should not exercise their powers to pass similar repressive laws. There is a difference between the two movements, and, bearing that fact in mind, I submit that Government will be acting in the right direction if they were to accept one of these two amendments.

Mr. S. C. Sen (Bengal National Chamber of Commerce: Indian Commerce): Sir, I oppose the motion for re-committal of the Bill to the same Select Committee. Those who served in the Select Committee, as I did, know to what extent Government are willing to yield. In his speech at Simla, the Honourable the Home Member enunciated the proposition that he would not allow amendments which will make the provisions of the Bill any pale shadow thereof. That principle was strictly observed in the Select Committee, so far as the main principles of the Bill are concerned. We tried to make amendments in the Bill which are sometimes vital, but although the Honourable the Law Member and the Home Member were courteous and reasonable enough to accept some of our amendments, the Honourable the Home Member did not accept many other amendments. Under these circumstances, to send the Bill to the Select Committee again, is, in my opinion, fruitless and futile.

Mr. Lalchand Navalrai: You are against the same Select Committee.

Mr. S. C. Sen: Whether it is the same Select Committee or any other Committee, the result is going to be the same. The provisions of the Bill have been thoroughly examined in the Select Committee. The Bill is a very drastic one and a very repressive one also. If we cannot get the provisions changed here, we would ask the Government and require them to work the Bill in a very sympathetic way and with great caution, and although, as I have said, the Bill is a very drastic one, and this is admitted, we could not make the Honourable the Home Member see eye to eye with us regarding the changes suggested. Take the case of picketing over which the greatest amount of discussion took place. We wanted that swadeshim should be allowed to be preached freely provided it was done in a peaceful manner. From the very beginning the Honourable the Home Member suggested that he was not against swadeshim, but against picketing in any form, whether peaceful or otherwise, in the name of swadeshi. So, Sir, there was a deadlock, and we tried to improve the position, but we did not succeed. A clause was subsequently added . . .

Mr. S. C. Mitra: Which means nothing.

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LEGISLATIVE ASSEMBLY. [15TH NOVEMBER 1932.]

Mr. S. C. Sen: This is what was added—Explanation clause 7. The Explanation is:

"Encouragement of indigenous industries or advocacy of temperance, without the commission of any of the acts prohibited by this section is not an offence under this section."

I do not understand what is the object of putting in that clause. Is it intended to be said that although a man does not commit any of the ingredients of the offence under section 7, still he shall be liable, because he was preaching swadeshi or trying to encourage the sale of indigenous goods or advocate temperance? Is it suggested, or was it in the mind of the Honourable the Home Member that any such attempt on the part of the people to encourage the sale of products of indigenous industries or advocate temperance is liable, and, therefore, he has put in this clause as a provision against that?

The Honourable Mr. H. G. Haig: The clause, Sir, did not originate with me.

Mr. S. C. Sen: Although the identical clause did not emanate from the Honourable the Home Member, something like it was proposed by the Honourable the Law Member and Government accepted this proposal, it practically emanated from the Government side. And what is the object of putting in that clause? If I do not come within the purview of the provisions of section 7, no power on earth, even if it be the Home Member of the Government of India, can put me in jail under this section or under any other section that I know of.

Mr. Gaya Prasad Singh: That was trying to throw dust into our eyes.

Mr. S. C. Sen: Why should we shut our eyes and allow others to put dust into ours? We did this with our eyes open, and the Honourable the Home Member was candid enough to say that he would not allow any picketing, however peaceful it may be, in the name of swadeshi or otherwise. Having regard to the attitude of Government, which was expressed in the debates at Simla and which was continued in the discussions in the Select Committee, I do not see what object we will gain by referring the matter again to the Select Committee.

As regards circulation of the Bill to the public, although I do not think that any good will come out of it,—people know the provisions of this Bill, they have knowledge of this Bill, they know the provisions thereof in the Ordinances, and all criticisms against those provisions were made at the time the Ordinances were made, but still as some of the provisions have been changed, the Bill may be circulated though I doubt whether any good will come out of it. There are certain amendments notice of which has been given and which, I think, are vital in the interests of the public. If we are strong enough in this House, we can carry those amendments. But circulation cannot bend the opinion of the Government to our side. They know what the opinions of the people are and that was also explained by the Honourable the Home Member in the Simla debate. I must say that some concessions have been made—some very material concessions—both by the Honourable the Law Member and the Honourable the Home Member at the Select Committee, especially the amendments in regard to the press law. There have been cases

where the press law, as enunciated in the Ordinances, being different from the press law, as enunciated in the Penal Code, some newspapers have been mulcted in fines, and the Honourable the Home Member has been kind enough to make the law the same both as regards the Penal Code and as regards this Bill in respect of sedition. The other additions to the press law are very drastic, but we found it impossible to make any changes there. There are other sections which, I think, have already been dealt with by some of the Local Governments, and although the Honourable the Home Member has agreed to their modification in the Select Committee. I do not know what is going to happen to them as the Acts, that have been passed by the local Councils, do not contain any of those modifications. I hope the Honourable the Home Member will direct the Local Governments to amend their law in the light of the amendments which he has accepted in the Select Committee. There is one omission which has been made, and that is, we do not know whether the offences created by this Bill are appealable or not. It was first provided that they should form part of the Penal Code and, as such, they were liable to appeal or otherwise by virtue of the provisions of the Criminal Procedure Code. I am not very well acquainted with the Criminal Procedure Code, but I should think that the Honourable the Home Member will kindly amend that part of the Bill so that the same right of appeal may remain to the accused as if the provisions had been incorporated in the Penal Code as was originally intended.

Mr. N. R. Gunjal (Bombay Central Division: Non-Muhammadan Rural): (The Honourable Member spoke in the vernacular a translation of which will appear in a later issue of these debates.)

Mr. President (The Honourable Sir Ibrahim Rahimtoola): No Honourable Member has got up to speak. Mr. Ranga Iyer.

Mr. C. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): Sir, I was almost despairing when you said that no Honourable Member got up, because I was certain then that the Honourable the Home Member would be rising to answer us. Sir, I thought I should have been in a proper position to address this House after hearing certain members of the Select Committee, but having indulged in one form of protest or another, they have observed today, rather curiously, the silence of the Sphinx. Therefore, we have to address ourselves on this subject as it lies before us without the wisdom of the members of the Select Committee.

Mr. Gaya Prasad Singh: It is enshrined in that document.

Mr. C. S. Ranga Iyer: One of the Members sitting behind me has been pleased to say that it is embalmed in that document. (Laughter.) I would rather not go into what has happened in the Select Committee. I would rather deal with the Bill that has been presented to us by the Honourable the Home Member and it was a very short speech, a very clever speech, because it is short, that he delivered. The Honourable the Home Member was short, because obviously he did not want a prolonged discussion. He did not offer himself for attack this time as he did on a previous occasion.

Mr. F. E. James (Madras: European): Are you going to be clever too?

Mr. C. S. Ranga Iyer: My friend from the European Group, Mr. James, says, "Are you going to be clever too?" If you cannot be clever, you can at least be good (Laughter), and I propose to be good and the only way in which the Opposition can be good is to stand by the rights and liberties of the people which are threatened today by this measure even as the economic life of this country is threatened under the Ottawa Agreement, which makes this Session a very important one, because we are neither to have economic freedom to choose what we should prefer or reject, nor are we to have political freedom nor even the rights and liberties of the Press. Sir, the Honourable the Home Member did not speak much on the attack that he has been levelling and proposes to level against the Press.

We all know the history of the attack that the Home Department has been launching against the press of India. I was a member of the Select Committee which considered the Press Bill and the Honourable Sir James Crerar, the predecessor of the Home Member, at the time helped by the Acting Law Member, Sir C. P. Ramaswami Aiyar, tried to meet us if not half way, at any rate a quarter of the way. We gave and we took and we also had, where we did not agree with them, a note of dissent. They agreed to many concessions, but, as soon as we went home, either to face our constituencies or on our business, an Ordinance was promulgated behind the back of this House and what was agreed to in the Select Committee by the Government themselves was practically negated by the Ordinance and those objectionable provisions are to be incorporated in the new measure that is presented to us. The Government want more and more power to control the press. The Press Act under the aggravated form is also to have an extended period of three years. For three years the Honourable the Home Member must have the press of this country under the mercy of the Government and of the officers of Government whose activities the press of this country has got to criticise in season and out of season. Imagine the seriousness of such a position! In some district or the capital of a province, there happens to be a district officer. That district officer mismanages either the political or the communal situation. That district officer has to be denounced and the newspaper editor, who denounces that district officer, runs the risk of having his press suppressed under this piece of legislation. The Honourable the Home Member has made the tentacles of that octopus, called the Ordinance Bill, wide enough to capture the offending press. He says "to bring into hatred or contempt His Majesty's Government established by law in British India or the administration of justice in British India" will be one of those offences. It reads very good on paper, but surely a newspaper editor who offends the Government, under that particular section, can ordinarily be proceeded against under the ordinary law of the land. But it is not the newspaper editor that they want to proceed against. They want to proceed against the newspaper press. They want to suppress the offending press. They do not want newspaper activities in this country unless those activities are pleasant to the Government—and a Government extremely foreign in character, as the Government themselves have admitted at the Round Table Conference through the speeches of their Prime Minister, and to shed whose foreign character our countrymen

are consulting across the seas with their representatives. Sir, such a Government have got to be criticised, especially when the opponents of Indian aspirations are free to say what they like in their own country. There is Mr. Winston Churchill—a man who has occupied every office open under every party in the British Government. (Laughter.)

Mr. F. E. James: Excepting the post of the Secretary of State for India. (Laughter.)

Mr. C. S. Ranga Iyer: Except, unfortunately, the post of the Secretary of State for India—a position which he may yet occupy (A Voice: "No, no.") if Mr. Winston Churchill's party comes into power,—unless he becomes the Prime Minister himself—a position, Sir, which has the non-official blessing of the official organ of the Tory Party, namely, the *Morning Post*. It only my Honourable friend, Mr. James, reads the last article that the *Morning Post* wrote on the last speech that Mr. Winston Churchill delivered on India, he will find that the *Morning Post*, which is the official organ of the Tory Party, warned Mr. Baldwin, even though loyal to him, that the present Government would fall, as the Coalition Government fell, if the present Government were to bungle on the Indian issue, as the Coalition Government bungled on the Irish issue. By "bungling" I imagine Mr. Churchill and the *Morning Post* mean reconciling themselves to the present situation and transferring power to the Indian people. Therefore, Sir, I am not prepared to take such a cheerful view of things as my friend, Mr. James. Both Mr. James and myself know as much about what is happening in Mr. James's own country through the newspapers of his own country and the speeches of their politicians in and outside Parliament. There is Mr. Winston Churchill, as I was saying, free to say what he likes in his own country, but if any newspaper in this country were to denounce Mr. Churchill and his countrymen who sympathise with him, it would come under one section or another,.....

Mr. B. R. Puri: Under all.

Mr. C. S. Ranga Iyer:..... as my Honourable friend, Mr. Puri, says, under all the sections. He has served on the Select Committee and he ought to know, and, as a criminal lawyer, he knows that his hands will be full if only newspapers do not bow to this new mandate to be issued by the Government of India. Sir, the object of this measure is to intimidate the Congress press. The object of this measure is to suppress the Congress press. They say there can be only one set of newspapers in the country—the constitutional newspapers, and by "constitutional newspapers" they mean newspapers carrying on constitutional propaganda. The Congress people maintain, on the other hand, that by constitutional propaganda they are entitled to uproot the existing constitution and to substitute therefor a constitution which will be acceptable to the people. The Congress people say that there can be no constitution which is the right constitution without the sanction of the people; and, for that, they are carrying on a particular kind of propaganda in the country. Under this measure, the Congress newspapers either will have to abandon their propaganda or to cease publication. The most honourable and correct attitude for the Government of India would be to proceed against the Congress editors who violate any section of their law, new or old, instead of trying to suppress the Congress presses themselves.

[Mr. C. S. Ranga Iyer.]

Sir, after all it is useless for the Government to contemplate introducing responsible government in the country if they think that the press of the country generally is not sufficiently responsible. The most honest position for the Government of India is to take their stand by the side of Mr. Winston Churchill and say: "You are not an educated people, your newspapers are not rightly educating the people, your newspapers are misleading the people, and, therefore, you are unfit for political education or responsible government. Therefore, we withdraw the reforms; we shut up the Legislatures; we put down the press; and we propose to carry on the government with the help of the Ordinances".

Now, why, I ask, did the Honourable the Home Member go through the formality of a Select Committee? It is a formality pure and simple—for the greatest concession that has been given to us is a three years duration for this Bill. We do not want three years duration. It has been said that the Honourable gentlemen who walked out and who walked in, both of them, agreed that there should be only six months' duration,—not that they would have agreed to it, but they were testing whether the Government were agreeable to a compromise in which case they would have agreed to it (Hear, hear), but the Government did not want to restrict the duration of this measure to the same period to which an Ordinance would have been restricted. They want the help of this Legislature to perpetuate their Ordinance administration for three years, and see, Sir, how they have treated this Legislature. The Honourable the Home Member is not responsible personally for it, but he has inherited the responsibility from a Government which has treated this Legislature as an "untouchable", which did not consult this House when the crisis arose in this country, and which passed Ordinance after Ordinance,—rained Ordinances all over the country: now, Sir, when these Ordinances have discredited the Administration, when the people have begun to feel disgusted with the Government, they come to us and say: "Please give us your blessings, let us have prolonged Ordinances for three years with your consent". Sir, if the Government were fair, if the Government respected this House—and, I venture to say, that they have condescended to respect it only at the fag end of their regime when their reputation is in the ditch—if they had originally respected this House, they would not have amended the Press Bill with an Ordinance as soon as we went away home. They would have held a special Session. They might have issued an Ordinance, but they would not have issued a second Ordinance, and they would have held a special Session and placed the Ordinance Bill before us—not now, but after the first Ordinance. No, Sir. They did not care a brass farthing for the opinion of this side of the House and they treated us shabbily, as they treated our political opponents out in the country, namely, the Congressmen, who boycotted "the Legislatures set up by foreigners" and who denounced us as being "co-operators with a foreign Government which deserved to be banished from this country with the help of civil disobedience". The Government tarred us with the same brush. Today when we are discredited in the country, when, if a general election were held tomorrow, not one Member on this side would be returned as against the Congress, when our reputation in the country has suffered, when we have been thrown to the wolves by this Government, they come to us and they tell us: "Please endorse this measure and sign your own political death warrant". (Cries of "Shame.") I cannot

understand, Sir, the attitude of the Government. Indeed we feel most intensely about the amazing manner in which the Government have treated the gentlemen who came to this Legislature with the olive branch of co-operation. We gave a proof of that in the Press Select Committee. My friend and Leader, Sir Hari Singh Gour, did a good deal of co-operation on that Committee. My friend, Mr. Bhagat Ram Puri, a great name among the criminal lawyers of the Punjab, co-operated more than I had expected he would co-operate on that Press Select Committee—though, for reasons, with which I will not say whether I am in agreement or disagreement, like my friend, Mr. Das, and which, I hope, will not be discussed across the floor of this House, he walked out of this Ordinance Bill Select Committee, not, I venture to say, in protest personally against the Leader of the House, but, because, he thought his patience had been exhausted and there was no hope of getting this particular pernicious piece of legislation drastically amended. Sir, that co-operation of ours on the Press Select Committee was of no use to the Government. The wisdom of Mr. Emerson, who co-operated with us on that Committee, the wisdom of their own Law Member, who subsequently became the Leader of this House, on that Committee, the wisdom of Sir James Crerar who was then the Home Member, on that Committee, all that wisdom was of no use to them; they were waiting for us to go home and then to amend the Press Act with the help of an Ordinance and then rope in the Congress newspapers.

My friend, Mr. B. Das, was referring to a newspaper edited by an enterprising journalist in Bombay who was once associated with me in his younger years in a newspaper of which I was the editor. Sir, *The Free Press Journal* reproduced an article about which the Honourable the Home Member was not willing to give more information when he rose to interrupt Mr. B. Das. But I am quite willing to give the Honourable the Home Member and this House information as to the manner in which the newspaper in Bombay with a very large circulation was about to be suppressed. If it had not produced Rs. 20,000—and it is a big sum even for the Government in these days of depression (Laughter), it is a much bigger sum for us—if it had not produced that sum, *The Free Press Journal* would have ceased publication. And what was its offence? It reproduced an article written by Mahatma Gandhi in his paper *Young India*. That article was printed, published, circulated, widely reproduced all over the country by newspapers with impunity, and that article related to the subject on which the Government have been pleased to permit the Mahatma to do propaganda from behind the bars. For small mercies we are grateful and Mahatmaji himself has expressed his gratitude. Sir, at a time when the Government are sincerely anxious to avoid any misunderstanding as to their attitude in regard to the question of untouchability, here is a newspaper which reproduced Mahatma Gandhi's article on anti-untouchability. The article, I believe, was entitled "Surat Satyagraha". The Government throughout have maintained that the Ordinance Bill is directed to suppress the civil disobedience campaign which is directed against the Government. Surat Satyagraha was not directed against the Government. I admit, there was Satyagraha; I admit it was a form of civil disobedience. I do not know—the Honourable the Home Member will be able to enlighten us—whether the Surat Satyagraha activity was very strong at the time and whether it was directed against

[Mr. C. S. Ranga Iyer:]

the Government or against those who resisted the right of the untouchables to be admitted to the presence of their God. Here is a Bill apparently meant to suppress the political civil disobedience movement, but even though this Bill has not yet become law, the Ordinance is directed against a newspaper in Bombay for merely reproducing an unoffending article, an article that has not been declared unlawful by the Government, an article that has not been removed from the premises of the *Young India* office in Ahmedabad, and an article which does not come under the category of proscribed literature. (Hear, hear.) That article was reprinted in the hope that the anti-untouchability campaign could be vigorously pursued; that article was reprinted in the hope that the Government themselves would not mind it; but the Government wanted Rs. 20,000 for the reproduction of that article! Sir, the Honourable the Home Member cannot convince this side of the House that the object of the Government is not to suppress inconvenient newspaper presses. I admit *The Free Press Journal* is an inconvenient press. I admit its sympathies are with the National Congress, though it has not been preaching a no-tax campaign. All Congress newspapers are afraid of the Ordinances and are afraid of losing their property, but they are not afraid of losing the freedom of their editors. Afraid of losing their property, they are anxious to carry on their propaganda within the limits prescribed by the present lawless regime of the Ordinances. When they are quiet and in a moderate, a most temperate mood, the Government come forward and punish them as they punished *The Free Press Journal* for reproducing what is certainly an unoffending article especially in the circumstances in which we and *The Free Press Journal* live, when every effort should be made to put down untouchability. The Honourable the Home Member may say: "Well, this Bill is directed and the present Ordinances are directed against Satyagraha". Even if satyagraha is directed toward the removal of untouchability, Satyagraha must be punished. In that case he should have definitely said so while his Government issued the Ordinances. We were given to understand at the time that political anti-British attitude would be punished, but even anti-untouchability attitude is going to be punished.

The Honourable Mr. H. G. Haig: I explained, Sir, in answer to Mr. B. Das that the action taken by the Bombay Government had nothing to do with the question of untouchability. It is no doubt true that the article dealt with untouchability, but it was not in respect of the passages which had any reference to untouchability that the Government of Bombay took that action.

Mr. C. S. Ranga Iyer: Was it not in connection with the article on "Surat Satyagraha"?

The Honourable Mr. H. G. Haig: I am not aware of the name of the article, but no doubt the article dealt with untouchability. My point is that the action taken had no reference to the untouchability campaign or any portion of that article which dealt with untouchability.

Mr. C. S. Ranga Iyer: But did it have anything to do with Surat Satyagraha which was conducted with a view to abolishing untouchability?

The Honourable Mr. H. G. Haig: That, Sir, I am afraid, I cannot answer. I will deal with the point in my reply.

Mr. C. S. Ranga Iyer: Was it not one of those articles which the Mahatma was permitted to publish with impunity?

The Honourable Mr. H. G. Haig: I do not know that he was permitted to publish it with impunity. It was published, I think, in 1930 before there were any provisions of this sort restricting the press.

Mr. C. S. Ranga Iyer: Well, Sir, the Honourable the Home Member has given his whole case away. He wants to deal with the press in a manner which is different to that which obtained in 1930. He wants to deny the press the freedom that it enjoyed in 1930. Sir, I would rather have the days of 1930 revived than the days of present repression continued. I want to create an atmosphere of goodwill. I do not want that the newspapers of this country should be crippled especially in view of the coming days of reforms and larger freedom. I do not want that our freedom should be taken away. I refuse to give the Government more power than they enjoyed in 1930 and I want that the Indian press should have more liberty. At any rate, the Indian press must not be denied the liberty that it enjoyed in 1930. Sir, when their countrymen, as I said, enjoy that freedom in England and when we have the right of reproducing the articles of Mr. Winston Churchill in this country, we must also have the right of denouncing Mr. Winston Churchill's countrymen who call us an illiterate, primitive, uncivilised race. Supposing I denounce the English people who call us all that in the same language, suppose I pay them back in the same coin, suppose any newspaper does so, we are punished. Sir, it is said of England:

"It is the land that freemen till
That sober-suited freedom chose.
A land where girt with friend or foe
A man may talk the thing he will."

Sir, this is also the land that sober-suited freedom likes to choose. I do not want what is not sober, namely, this Bill. According to the Honourable the Home Member, it is not sober why then pollute the Statute-book with this Bill? The Honourable the Home Member himself admitted that it was not sober. He said, it was "exceptional". He said, these provisions were "drastic". Therefore, we do not want this piece of legislation to pollute the Statute-book. Now, so much for the rights and liberties of the Press which are assailed by this measure.

Not only is the Press assailed, but also the platform. We cannot hold a meeting in this country without satisfying the district officer that our meeting has nothing to do with the Congress propaganda. We cannot deliver a speech in this country condemning the outrageous speeches delivered against us in England and condemning the drastic action taken against us in India, protesting against the action taken by the Government against the people of this country. We cannot condemn some of the sufferings of our prisoners in the jail and I know that they do suffer. We cannot condemn many other things that are happening under

[Mr. C. S. Ranga Iyer:] The Hon. the Home Member said the Ordinances. If we do so, this piece of legislation will be directed against us for the next three years. Sir, "chain the platform, curb the Press, suppress the rights and liberties of the people to express themselves in a manner not pleasing to the Government"—this is the purpose of this pernicious piece of legislation. We are here to resist that purpose, we will resist it at every stage, for surely our political freedom is very important to us. The Honourable the Home Member cannot take it away for three years under the pretext that, three years hence, "I am going to hand over this piece of legislation to my successor". I am afraid, Sir, the Honourable the Home Member has a very poor opinion about his successor. (Laughter.) His successors will be quite competent to look after themselves after three years. Forsooth! they are going to hand over their present legacy to their successors and...

Mr. K. Ahmed: Within which period, not after.

Mr. O. S. Ranga Iyer: Yes, within three years. I am very thankful to my Honourable friend, Mr. Kabeer-ud-Din Ahmed, for correcting me. I stand corrected. The Honourable the Home Member is apparently optimistic, or at any rate wants us to take a cheerful view of the future and believe that he is going to hand over power within three years. Sir, this measure will prevent the handing over of power within three years, for without agitation in the country, without the newspapers having the right to write strongly against Mr. Arthur Moore's paper, more strongly than he writes, without that power, how can we keep alive the public life in this country? Mr. Arthur Moore writes with caution, he writes with restraint. He can afford to write like that. But the people who are agitating for their rights and liberties, they cannot write with that sobriety, because they have to stir up public opinion in the country, especially when public opinion is put down by Ordinances of this kind placed on the Statute-book. If this piece of measure is placed on the Statute-book, then good-bye to any hope of transfer of power within three years.

Mr. B. B. Puri: Three decades.

Mr. O. S. Ranga Iyer: My Honourable friend, Mr. Puri, says three decades. I hope public opinion will conquer Government within less than that period. I do not agree with the pessimistic view taken up by my Honourable friend from Lahore. I think even the most faint-hearted amongst us will be astonished at the rapidity with which we are going to conquer power, and it is because we are out for a conquest, we do not want that obstacles, handicaps, Himalayas should be put in our way. This piece of legislation will be the mighty Himalayas in the way of India's conquest and quest for power. That being so, we cannot agree to these three years of Ordinance régime and, that too, with the help of this Legislature. How can the Opposition go to the country after placing this Ordinance Bill on the Statute-book?

The Honourable the Home Member said when he asked us to permit him to take the Bill into the Select Committee with certain gentlemen from this side of the House, he said that he had an idea of not rendering the measure very pale, but, at the same time, he thought he had an idea

of preparing the ground for people who will succeed him. He repeats the same argument today. After three years, everything will be all right and it is open to his successors to keep this measure or leave it. We do not agree to give him three years of Ordinance era with our consent. He, again, said, if he opposed the motion for circulation, he opposed it, because Honourable Members, seated on this side of the House, knew the opinion of their constituencies and the Honourable the Home Member knew the opinion for which his Government stood. Therefore, he asked, why circulate it for public opinion. I agree. He knows his opinion. We know our opinion, and that is why I say, bury this legislation here and now, on the floor of this House. I hope Honourable Members on this side will not press any of their dilatory motions. I trust they will oppose the Bill straightaway and vote for the burial of this motion on the floor of the House. (Applause.) (A Voice: "That is the most straightforward course.") My Honourable friend, Diwan Bahadur Rangachariar, whispers that that is the most straightforward course. It is a straight course and it is a forward course and, therefore, a straightforward course.

Coming now to molestation and the right of peaceful picketing, I ask, why should the right of peaceful picketing be taken away from us. This right was not taken away from us in the past. Mr. Gokhale, an honoured name in this country, a name honoured by the Government and the people alike, said that we had the right of peaceful picketing. If the Honourable the Law Member were to speak as a lawyer, he will admit that peaceful picketing is a legal right and there will not be any necessity for this piece of legislation, except to take away what has been a legal right. Why should the legal right of the people be taken away and, that too, when you are presenting the Ottawa pistol at our head. Under the Ottawa Agreement, we are to agree to certain form of preferences. But we have no tariff policy which we can control. We have no control over the finances and, if foreign goods are dumped into this country, have we not got the right of telling the people: "Do not purchase these foreign goods". That first gentleman of the Empire, the Prince of Wales, has been going about and telling his countrymen: "Buy Swadeshi, buy British". I admit he also says: "Buy Empire". Sir, have we not got the right, until we are given the same position in the Empire as the Dominions which the Honourable the Home Member promises within three years, have we not got the right of pursuing the policy of peaceful picketing? It may be that we may picket Japanese goods in Bombay. The Japanese goods are dumped on our markets. We do not want sufficient help from this Government in that direction, because if it suits them to prohibit the dumping of Japanese goods, they will say: "Do not picket Japanese market or those who deal in Japanese goods, because we will give you a piece of legislation which will put an end to Japanese dumping". But, supposing we want to picket British goods, supposing we do not want our people to prefer British goods to our own, supposing we want our countrymen to purchase swadeshi, as that patriotic Englishman, Lord Irwin, himself said and I read his quotation the other day, supposing we want our people to buy our own goods, as every patriotic Englishman would purchase the goods of his own country, have we not got the right to go and stand before these shops, have we not got the right to tell every Indian: "Do not enter this shop, because foreign goods are stocked in this shop, go to the other shop where your own

Mr. C. S. Ranga Iyer.] countryman stocks Swadeshi goods? Have we not got that right, and why should the Government take away the right? If we were a self-governing Colony, if we were a self-governing nation, and if I were on the Opposition benches, perhaps I would agree—but I doubt it—I would perhaps agree to their granting a limited permission for picketing. But when we have no tariff control, the only weapon in our hands is peaceful picketing. Government are certainly justified in putting lawless picketers in prison. Their laws are long enough and strong enough to attack any one who happens to be lawless and to attack those who molest illegally those who buy things. But how, on earth, I ask, can we on this side honestly and conscientiously vote for a piece of legislation which takes away our legal right of picketing? I do not agree to that. I do not believe that a single Member on this side of the House will agree that the right of peaceful picketing should be described—it is rather a curious phrase—as "molestation." (Laughter.)

Then comes the question of the definition of "boycott." One kind of boycotting will be picketing itself and we do not want that this peaceful right should be taken away from us. Sir, it is unnecessary for me to go at length into this curious piece of legislation directed against the freedom of our people, the freedom of the press, the freedom of the platform. We, who believe in the freedom of our country, cannot under any circumstances agree to the Government thwarting those rights and thwarting those liberties. We know that it will be impossible for people who are not Congressmen, but who are strong Swadeshists, to carry on and organise a propaganda in this country, the moment we put this Bill in the hands of Government. And there is a danger that this Bill will be abused more than the Ordinance itself, because they will tell the country that this is a Bill which had the support of their own people. For these reasons I hope that this measure will be buried on the floor of this House. (Applause.)

Mr. N. N. Anklesaria (Bombay Northern Division: Non-Muhammadan Rural). Sir, my Honourable friend, the Deputy Leader of the Nationalist Party, wanted some members of the Select Committee to speak on the present motion. I can well understand his desire to hear some members of the Select Committee on the topic which has acquired so much prominence in the newspapers. But, Sir, unless and until I have got your permission to disclose what happened in the Select Committee, I am not going to say anything further except what would explain my own past conduct on the proceedings. My Honourable friend, the Deputy Leader of the Nationalist Party, in his long introduction said something about the Select Committee proceedings, and I gather from the speech which he made that in his long and warm introduction he was simply gathering momentum for defending his own profession of journalism. Sir, this is not the stage at which I can say anything about the clauses relating to the press. I will therefore address myself to matters relevant to the present motion, and, in the first instance, I propose to deal with the motion of my Honourable friend, Mr. Sadiq Hasan. My Honourable friend appealed and appeared before the elected Members of this House not to harden their hearts against their countrymen. Sir, I am an elected Member of the House and I appeal to him to harden his heart and to help Government in protecting our countrymen and countrywomen against the worst tyranny which this country has ever known, I mean the Congress tyranny.

I cannot understand my Honourable friend forgetting so very soon and so very easily the number of riots, murders, arsons, raids and assaults on defenceless men, women and children which have blackened the annals of this country for the last two or three years. I cannot understand how my Honourable friend can forget so soon and so very easily Cawnpore and Calcutta, Bombay and Madras and other towns where these crimes have been perpetrated. Sir, when I spoke in this House in the Simla Session, I described the misdeeds of the Congress.

Mr. B. Das: You are slandering the Congress.

Mr. N. N. Anklesaria: My Honourable friend, Mr. Das, in his usual gentle voice, which I could not hear, interjected that I was 4 P.M. slandering the Congress. Had I heard that interjection, I would have replied that by countenancing and defending the misdeeds of the Congress, he was aiding and abetting the large catalogue of crimes which I have enumerated and which my Honourable friend, Sir Muhammad Yakub, described.

Mr. B. Das: I challenge you again: there is no truth in your statements.

Mr. N. N. Anklesaria: He again challenges me, but I am not going to waste the time of the House by reading to him the two or three pages of the long list of misdeeds of the Congress which my Honourable friend, Sir Muhammad Yakub, enumerated so very eloquently and so very efficiently, and which will be found in the debates of this House during the last Simla Session.

Sir, I submit that this motion for circulation is not at all a genuine motion for circulation. In the first place . . .

Mr. D. K. Lahiri Chaudhury (Bengal: Landholders): Did you not yourself move for circulation in the Simla Session?

Mr. N. N. Anklesaria: In the first place it mentions no date by which the opinions are to be elicited.

Mr. D. K. Lahiri Chaudhury: What is the general improvement you find which changed your views?

Mr. N. N. Anklesaria: I will show the frivolous character of the three grounds which my Honourable friend, Mr. Sadiq Hasan, gave in support of his amendment. He began by saying that he stood for the suppression of violence. I ask him, how is he going to suppress violence,—by merely stating his opinion about the advisability of suppressing violence without taking some concrete action towards that end? He gave out, as his first reason for circulation, that in ordinary matters we circulate a Bill. I respectfully demur from that opinion of my Honourable friend. In ordinary matters it is not usual for us to circulate a Bill. It is only in important matters or in unusual matters that we circulate a Bill to elicit public opinion.

Mr. D. K. Lahiri Chaudhury: This is an important matter and why should it not be circulated?

Mr. N. N. Anklesaria: For once I will answer this interruption. Mr. Sadiq Hasan stated that in ordinary matters we circulate Bills. I say I dissent from that opinion, because, in ordinary matters, we do not circulate Bills. In the second place, what does my Honourable friend want by circulation? As I said at the last Simla Session, the law which has been sought to be embodied in the Bill has been before the public, in some instances for the last twenty-three years. The Ordinances have been before the public for at least one whole year. This law has been seen actually in operation and has been actually administered; and if the public has, up to this time, not come to some definite decision about this matter and have not chosen to inform Government as regards their views, whose fault is it?

Sir, my Honourable friend's second ground is too frivolous for me to dilate upon, because, if I tried to explain his meaning, in stating that ground, I think I would be instituting the common-sense of this House. My Honourable friend's third ground was, how can we bind the new Federal Assembly by passing this Bill?

Shafiq Sadiq Hasan: I never said so.

Mr. N. N. Anklesaria: Something to that effect. He said, the new Assembly would be constituted soon and the new Assembly had better be given a chance of dealing with this matter. So far as I remember, he said something of that sort. I say, if this argument had got any validity at all, then I think we should all pack up and leave and wait till the new Assembly is constituted. It seems all legislation must stop, because the new Assembly is going to be constituted very soon and this House cannot bind by its legislation the new Assembly. I say the absurdity of the argument is too patent to be any further dilated upon. My Honourable friend has stated that this is a Bill to strangle public liberties. I say, this is a Bill which ensures the bare right of existence to millions of my fellow countrymen and countrywomen; and had the Government waited any further before taking up this measure, they would have been guilty of a very serious dereliction of their duties. I would have concluded but for one point. I do not recollect who was the Honourable Member—I think it was Mr. Das who stated something about the conduct of the proceedings in the Select Committee—I mean the conduct of the Chairman of the Select Committee.

Mr. B. Das: I did not say that; but if you want to say it, somebody will reply to you.

Mr. N. N. Anklesaria: He said that the Honourable the Law Member was not impartial. I would . . .

Mr. B. Das: I did not say that.

Mr. N. N. Anklesaria: Somebody. I do not remember. I think it was Mr. Das.

Mr. President (The Honourable Sir Hasham Rahimpoor): The Honourable Member ought to accept the contradiction.

Mr. N. N. Anklesaria: Then I will say nothing more about it. But somebody said something about the walk out. I was in the Select Committee and I think it would be fair to all concerned if I state as my humble opinion that the walk out was absolutely unjustified. . . .

An Honourable Member: You were half inclined to agree with us then. . . .

Mr. N. N. Anklesaria: I was the most aggrieved party and it was for me to have walked out, had I not believed that in giving his ruling the Honourable the Chairman was acting perfectly according to his conviction; and nobody has any right to attribute any motives to any Honourable Member of this House. As I could not attribute any motives to the Honourable the Chairman and as the Honourable the Chairman was perfectly within his rights in ruling out my amendment, I did not walk out; and, I say, it is a matter of regret to me that my Honourable colleagues walked out, because the previous day—I hope I am not disclosing any confidences— . . .

Mr. B. R. Puri: You are. (Laughter.)

Mr. N. N. Anklesaria: Then, that is all I have to say on the present motion.

Mr. B. N. Misra (Orissa Division: Non-Muhammadian): Sir, I was not willing to intervene in this debate but for the neighbour on my left side. The Bill, as it has emerged from the Select Committee, has, as its object, to stop the civil disobedience movement. If that is so, I would like to put some questions to the Honourable the Home Member. This movement is not one of one day and it is not only in India; probably this has been thought of for generations by people who are armless and helpless. Such people have always used this. In India we have such a thing as sitting *dhurna* or praying to God or some such means of peaceful persuasion. These are the only methods followed by peaceful and armless people. Of course we have no arms and no other means; and this movement now is not so small a movement. I think the Honourable the Home Member and the Treasury Benches realise that this is a great movement. So I shall ask him some questions for which I do not think he will require six or ten days' notice or any notice at all: neither will he have to search for any departmental files. He can give a reply if he so chooses from his own common sense and from his own knowledge. He and the other occupants of the Treasury Benches are probably thinking that they are going to stop this movement. I think all of us know more or less that Jesus Christ was crucified. He preached and went on preaching; but, with his crucifixion, did Christianity die? I ask the Home Member to answer that question. Christianity never died: on the other hand, it spread and from that little country it has gone out all over the world. So this movement will never die. I want the Honourable the Home Member to answer me whether Christianity died or if any other movement has died in this way as a result of persecution against it. Mahatma Gandhi is in prison today; Pundit Jawaharlal Nehru or Mr. Subhas Chandra Bose or any other man may be put in jail and persecuted; but will all these persecutions stop the movement? That is what I am asking. No sooner Mahatma Gandhi came from London last year from the Round Table Conference than he was

[Mr. B. N. Misra:] Perhaps Mr. Sen Gupta was arrested on board the steamer. Whatever that may be, has this movement died during this whole year? That is the question I want to ask. Sometime or other it was given out in the papers that the movement was dead; but still we read in the papers every day of so many arrests and imprisonments. I say, this movement will never die, because this is a righteous movement and the people believe in it; they may be right or they may be wrong, but still they believe in it. There is a saying in Sanskrit, "No Vishnu preserver *patas*" which means this. It has two meanings, which I shall explain. One is that our king or our sovereign power is our God. We shall respect the sovereign power as our God. Sir, there is another meaning, that is to say, one who is A-Vishnu or who is not God-like, protector-like, preserver-like, is not our sovereign. But as we have to respect the sovereign power, it should be such in purity and sympathy that it should command the respect of the subjects. That is the whole essence. But, what do we find in India? The sovereign power is most unsympathetic to the people of India, they do not care for the poverty-ridden people; that is why the people are against the Government, that is why the civil disobedience movement has started.

The British administration began in this country about 150 years ago. When the Great and Good Queen Victoria assumed charge, I think she declared in the preamble that she assumed charge "For the Better Government of India". If she had known then that the power would be so mercilessly abused as is done in India today, perhaps she would not have lent her name, which was a household word, to be abused in this manner. Such a good name should not be abused in this manner. The Britishers today are no longer God-like and they do not deserve our respect. They have now become A-Vishnu. Vishnu is the God. He is the preserver or protector. Our British people do not care to protect our interests. Those Honourable Members who sit on the Treasury Benches are there merely to protect the British peoples' interests and not to protect India's interests. We had the Ottawa Agreement, and still it is being discussed. Our interests are never identical; our interests are never protected by the British Government; the British Government want to protect the interests of their own people. That is why the people of this country are so much against the Government today. It is said that by means of these Ordinances and Bills you will kill the civil disobedience movement or any similar movement. I say, you will not be able to kill it. You may imprison some 33,000 people or perhaps three times more that number. India is not such a small country like the British Isles. India has got several crores of population. Sir, I am asking this question very seriously—do the Government really think that by this Bill they can kill terrorism or kill the civil disobedience movement?

Now, coming to the Bill itself, it is really a very repugnant measure. In the first or second clause, it is stated that its life will only be for three years. I was always thinking that very likely this Third Round Table Conference will perhaps decide matters in such a way as to bring about conciliation in all quarters and there will be no necessity for such measures as these. There will be no place for such obnoxious measures like this. I think the Honourable the Home Member or the Law Member, whoever is responsible for it, has committed a great blunder in trying to fix the life of the Bill at three years. They could have put 3,333 or

any number of three's in the Bill if they thought that there would be no conciliation or satisfactory result from the Third Round Table Conference. Let them put any number of three's, and they can be multiplied, and we shall be constantly living like this; the country will not be happy and nobody will be happy. I would, therefore, appeal to the Treasury Benches to adopt the conciliatory method. They are the advisers to His Excellency the Viceroy, whatever His Excellency might like to do,—I do not think I can blame His Excellency the Viceroy, but I should mostly blame his advisers if they do not give the best piece of advice to His Excellency, to adopt a conciliatory policy in this matter. You may put, as I said before, 30,000 people in jail; there are already a large number in jails; they do not care for your laws; they have no respect for your laws, because they do not plead guilty, and you may be sure of it that, by passing not only this Bill, but hundreds of such Bills, nothing will daunt the people. Nobody will be afraid of this or any other similar measure. If we are all alive, we shall see that, with the spread of this movement, all the jails will still be full, and nobody will be afraid of your jails. Now, what will bring about peace and happiness or contentment in the country? Goodwill alone will satisfy the people. Be a preserver-like, be God-like, and protect the interests of Indians. No sooner you begin to protect the interests of Indians, without showing any bias against Indians, you will yourself feel the change. Sir, this movement will never stop; it will go on.

Now, a word about the punishment of parents for the faults of their boys. I think Honourable Members opposite, who have drafted this provision, have children. I think the Honourable the Law Member has boys—I do not know. Supposing his son, who may be studying in Calcutta or elsewhere, does something or joins the Congresswallas, is the Law Member who is sitting here to be punished or fined? (Laughter.) Sir, I am asking this question in all seriousness, and I am appealing to him to consider the unreasonableness of the provision. If my son goes as a Congresswalla, how can you fine me for it? I am sitting here. My son might go with some Congresswalla. I cannot keep him in a box. (Laughter.) Am I to be punished for it? It is really silly that parents should be punished for the faults of their sons. If you think that parents encourage their boys to join the movement and if there is *prima facie* evidence against the parents, then, by all means, punish them; but to fine the parents merely for the faults of their boys is, I must say, lawless law. How can you punish the parents for the faults of their boys? I think one can go on condemning this provision for any length of time, but I do not want to prolong the debate. (Several Honourable Members: "Please go on.") Sir, the whole Bill is defective from top to bottom. It looks as if the whole Bill has been drafted without a conscience, it looks as if there was not even a grain of common sense left anywhere. I am sorry to find that the Honourable Sir Brojendra Mitter, who is drawing only Rs. 6,000 a month and is earning so little, should have lent his name to this Bill. He was earning much more in Calcutta, and I do not know why he should put himself in this awkward position by subscribing his name to this Bill for the paltry sum of Rs. 6,000. (Laughter.) The whole Bill should be condemned from every quarter. It does not deserve any support. For my part, I would like that it should be circulated again, and I support my friend, Shaikh Sadiq Hasan.

Mr. Muhammad Anwar-ul-Azim (Chittagong Division: Muhammadan Rural): Mr. President, I had not the least desire to speak on the motion

[Mr. Muhammad Anwar-ul-Azim.]

of my esteemed and learned friend, Shaikh Sadiq Hasan, but I think it would be useful if I indicated a few points with regard to both the amendments. I do not know if any useful purpose is likely to be served if, at this stage, after a lapse of more than one month, since the introduction of this Bill at Simla, anybody were to say that the public opinion in this country has not been sufficiently apprised of its contents or the purpose for which this Bill has been introduced by the Government. Mr. Hasan wants recirculation, for reasons which do not appeal to me at all. His idea is that the country at large have not known what this Bill wants. The Bill, in short, wants to check the growth of civil disobedience movement, in all its bearings. It wants to protect the peaceful citizens from the tyranny of the Congress activities. It will make illegal the creation of race or class hatred of all kinds. In short, in the words of the Honourable the Home Member, it is likely to barken the minds of the peaceful and lawabiding citizens, and consequently will give impetus to Trade and Commerce.

It is very difficult for a non-official and elected Member like myself to speak boldly, because the feelings in my mind are so strong and so very high that, lest I should forget the thread of my arguments, I do not feel justified to go to that length of expression. But if my learned friend, who is a member of my profession, Mr. Sadiq Hasan, tried to be consistent with regard to the subject which he has asked the Assembly to consider, I should have surely expected him to take this attitude—what will be the gain if this very same Committee, consisting of the very same people and the very same number, were to consider it over again, they were not likely to put in any new ideas or new orientations into the merits of this Bill. At this stage I do not think I shall be justified in going into the details of the various clauses, but one thing must be said in passing. I do not think that this Bill has been introduced too early, for the area from which I come, and the constituency, which I have the great honour to represent here for the last six years, do feel that perhaps the Government have been late; rather too slow and over-cautious in certain matters and that the delay on their part was not justified and has given momentum to the civil disobedience movements. Sir, I am not against the best interests of my countrymen. They must have what they legally can. I am a zamindar, and I am also a professional lawyer, but if I find that I am not free, having responsibilities and stakes in the country, to do things in the best way I like, I shall certainly be right to accuse Government if they do not come to my rescue. My grievance would be, on the one hand they are taking income-tax to a large tune from me, they have been taking revenues from me as a zamindar, and they are taking in a hundred and one other ways quite a lot of my income, and, in return, if they are not in a position to give me sufficient help and protection for bringing in this income, I am certainly, as a well-wisher of this country, sure to grumble. (Cheers from the United India Party Benches.) Why this clapping? (Mr. B. Das: "Because the Punjab does not pay any punitive taxes, they are clapping.") I had not the privilege of being able to take part in this debate in Simla, but what I could gather, as a careful listener of debates in this House, perhaps this Bill was intended to meet the menace of civil disobedience. There is a saying in this part of the world, that "the cat should have been killed on the first night." Well, Sir, I should accuse the Government for not taking time by the forelock and not giving their

right mind at the proper time in a momentous question of this kind. If they thought that the Delhi Pact of Lord Irwin and Mr. Gandhi would bring in the millennium, of course, they were entitled to have that opinion, but the subsequent events which have happened, and the way the Government of India have tackled them, show that perhaps they were over-cautious, and, at times, timid.

Now, let me say one or two words, in passing, with regard to the various clauses of the Bill. My Honourable friend, the Deputy Leader of the Nationalist Party, has taken very serious objection with regard to certain provisions embodied here, which are likely to curb the proclivities of the platform speakers and the license which has been taken by the press. I am a presswala myself, and I run a paper. But if anybody has got any respect for history, he knows that things like "DORA" and its sister laws were passed even by civilised countries like England. They have certainly in European countries what is called the supremacy of the law, or the supremacy of the common law. But there are occasions, even in those civilised countries, when they have taken exceptional measures to meet exceptional emergencies. I feel, as a peaceful citizen who wishes the ordered progress of his country, that an emergency has occurred. The facts are so patent all round that it will be futile to deny that the emergency has not come, and we do require legislation of a certain type to be able to live freely, to talk freely or even to breathe freely.

Certain objections have been taken by some of my friends that if this Bill is passed, it will stifle what is called the free movement of Swadeshi articles. I have very great doubts about that matter, because, after all, what is the issue? You must decide one way or the other,—whether you like the continuance of the British connection, or whether you do not. These are the only two issues which it seems to me the Assembly has to decide. If the Assembly decides that we should sever connection with England, of course it is welcome to do so. But I do not think that that should be so, because I feel that for some time to come we require to be under the tutelage of the Government of England till we have reached the strength of adolescence.

Mr. S. C. Mitra: Will you ever remain a minor?

Mr. Muhammad Anwar-ul-Azim: My friend asks, whether we shall remain minors for all time. No. I remember, Mr. President, once a friend of mine, who wishes me very well, asked me whether it will be possible for a certain class of people to supply a certain kind of material for a certain administration. I had to say that we have to put A in five places and B in 101 places if you have an efficient administration and I think it will be sufficient answer for my friend, Mr. Mitra. (Sir Abdulla-al-Māmūn Suhrawardy: "Mr. Mitra will have to be in 101 places.") My friend, Sir Abdulla, says that Mr. Mitra will have to be present in 101 places. How can one seriously think of severing the British connection at this stage. I do not think I can usefully take up more time of the House. I am very sorry that my learned friend, Mr. Sadiq Hasan, has put forward this dilatory motion. In his own area things are in a surcharged condition and one match is sufficient to ignite the whole area. With these words, I oppose motions Nos. 1, 2 and 3.

Mr. R. S. Sarma: In complimenting the Home Member on the brevity of his speech, the Deputy Leader of the Nationalist Party observed that it had one advantage, namely, that a brief speech was not open to much attack. Sir, I am going to be much briefer than the Home Member and I hope that my speech also will have that advantage and not lend itself to much attack. I oppose this motion for circulation, because, to my mind, it is a foolish amendment. We have heard the whole of this day many speeches in favour of that amendment and I wonder, Sir, whether any of those speeches has the least relevancy with regard to the amendment before the House.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member could have risen to a point of order.

Mr. R. S. Sarma: I am not referring to the technical or legal relevancy on which your ruling is supreme, but I am talking about the moral and the commonsense relevancy of the speeches about which we, who have been sitting and listening to, are the sole judges. Sir, while the generosity of the Raja of Palakimedi or the Raja of Kallikote have enabled us to congratulate Mr. Das on the opportunity he has got for establishing personal contact with Lord Sankey in London.

Mr. B. Das: On a point of order. Can an Honourable Member discuss private affairs on the floor of this House?

Mr. R. S. Sarma: It is, I take it, for a high public purpose that the Honourable Member is going.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): What relevancy has that to the present motion? The Honourable Member was very eloquent about relevancy and the Chair wishes to ask him, what relevancy that has to the present motion before the House.

Mr. R. S. Sarma: If you, Mr. President, do not think it is relevant, I withdraw it. Even if it is not relevant, it is at any rate amusing in a dull House. To my mind the position is very clear. Either this House wants this Ordinance Bill or it does not. With an eloquence and warmth of feeling which has not helped to strengthen his case, but which would be very helpful to him in the next election contest, the Honourable Mr. Ranga Iyer asked, why this Government should have the unfairness to come and ask for their co-operation to a retrograde and reactionary legislation? My answer is this. I am not saying anything at this stage in favour of the Bill or against it. I am only placing this general observation for the consideration of this House. There is the civil disobedience movement and, last year, or the year before, Government had to promulgate some Ordinances and, in the debate that we had on the motion for adjournment to consider the question of the Ordinances, it was pointed out by speaker after speaker that they realised there was lawlessness in the country and that if Government came forward with a reasonable measure to put it down, they would not find the Assembly wanting and they said: "Why are you promulgating the Ordinances when the Assembly is sitting." Now, the answer is provided by the Government. Now that the Assembly is sitting, they are not promulgating an Ordinance, but

responding to the call of the Opposition and they are placing before them a proposition for their consideration. If the measures are drastic, it is for the Opposition to suggest amendments as each clause is taken up, but to say "bury this or send this for circulation" is, to my mind, a little dishonest, after the protest that they made on the last occasion asking Government to place their measures before this House. On the other hand, if they think that the whole of this measure is too drastic and too reactionary, and encroaches upon the liberties of the people, they can quite well come up and say: "Look here. We are elected Members. We do not want to face an angry constituency. We are not going to co-operate with you." That will be more honest, but to make this dilatory motion and move for circulation is, to my mind, childish and dishonest.

Mr. D. K. Lahiri Chaudhury: However eloquent and however relevant Mr. Sarma may be on this question, opinion differs. I rise wholeheartedly to support the motion that has been ably moved by Mr. Sadiq Hasan. My friend, Mr. Sarma, took up the side of the Government and, considering the constituency he represents, his view was proper and reasonable, but my constituency is quite different. I represent the Landholders' constituency. We, Members in this House, not only represent our constituencies on a motion like this, but the interests of the whole of India.

The Honourable the Home Member, when he made his inaugural address in Simla, mentioned three points on which it was necessary for the Government to expedite this Bill. Firstly the civil disobedience movement, secondly, communism and, thirdly, terrorism. It is for these three reasons that the Government want to pilot this Bill in this House. It is really for the first time in the annals of the present constitution that we have been faced with such a drastic legislation. It is really a pity that we do not have here our Swarajist friends on this occasion, but that is no reason why we should not give a tough and strong fight to the Government. Sir, the Honourable the Home Member brought forward the argument that the Government did their level best to bring round Mahatma Gandhi. Their idea was to get Mahatma Gandhi to stop the civil disobedience movement and to co-operate with the Government. Here I have got in my hand the volume called "The Indian Annual Register, 1931", which, I think, is as authentic a book as any, and, with your permission, I should like to read out a few extracts from the Gandhi-Willingdon correspondence which will clearly show how much Gandhiji was eager to co-operate with the Government and how far Government refused that co-operation. Now, with your permission, I shall read out a few extracts.

The Honourable Mr. H. G. Haig: Sir, on a point of order, is this relevant to the motion before the House?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): I was waiting to hear what the Honourable Member wanted to read. What is the point that the Honourable Member wishes to make?

Mr. D. K. Lahiri Chaudhury: I want to make it clear that this Bill is not at all necessary at this stage to be piloted on the floor of the House; and I am going to oppose the arguments advanced by the Honourable

[Mr. D. K. Lahiri Chaudhury.]

when the Third Round Table Conference is sitting in England, and when our leaders are in jail, and when everybody is feeling the pinch of this obnoxious legislation and police terrorism, is it fair and justifiable on the part of the Government to bring this measure on the floor of this House? It is much better for the Government to have public opinion on this Bill and circulate it. If they say that there is no time for doing that, then they can certainly resort to some special legislation. They can pass some more Ordinances. At this juncture, when the Third Round Table Conference is sitting in England, let them show co-operation and sympathy. Let them again try to release the Mahatma so that he may do his best to stop the civil disobedience moment and evolve a solution of the Indian problems. The other day my friend, Mr. B. Das, asked Government to release Mahatma Gandhi so that he may be able to negotiate with Muhammadans and Hindus about the unity conference. But the Honourable the Home Member said that he was a State Prisoner and, therefore, could not be released. May I ask the Honourable the Home Member, with what conscience he allowed him to solve the question of the Depressed Classes? With what conscience did he allow that this State Prisoner should be permitted to carry on correspondence? It has also been stated, times without number, that the question of the Depressed Classes was mainly a social and a religious one. Can he, at the same time, deny the fact that it carried also the political sense? Is it not a fact that the question involved was whether the Communal Award should be retained or not on that particular issue? Is not the Communal Award a political issue? Then, again, with regard to the question of the unity between the Hindus and the Muhammadans, the Honourable the Home Member says that it is a political issue.

The Honourable Mr. H. G. Haig: I should be very glad to respond to my Honourable friend's invitation and give him an answer if I understood what it had to do with the question we are discussing.

Mr. D. K. Lahiri Chaudhury: The Honourable Member does not understand. It is very difficult to awake a man who feigns to be sleeping. Now, the question is that the Honourable the Home Member has tabled this motion for consideration and has said that it is absolutely necessary in the best interests of this country that this Bill should be passed. I ask the Honourable the Home Member just to wait only for two months. Release all the civil disobedience prisoners; withdraw all the restrictions over the press; allow them to express free opinion; let there be freedom of speeches in public places regarding this Bill; then, after judging the public opinion, you bring such measure. We will see what can be done in January. During these two months, I am sure, Government will be able to govern the country with all the powers that they at present possess. After two months, when we meet again in January, this Bill should be discussed again. I really do not understand why Government should oppose the motion for the circulation of the Bill. I, therefore, support the motion of my friend, Mr. Sadiq Hasan.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 16th November, 1932.

LEGISLATIVE ASSEMBLY.

Wednesday, 16th November, 1932. 3/

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

QUESTIONS AND ANSWERS.

APPOINTMENT OF INDIAN TRADE COMMISSIONERS.

1227. ***Mr. B. Sitaramaraju:** (a) Will Government be pleased to state how far the scheme for the appointment of Indian Trade Commissioners has progressed?

(b) Do Government intend opening the office of the Indian Trade Commissioner at Milan and in East Africa? If so, when?

(c) Are Government aware that the services of such officers are more useful in times of depression than boom and that with the world competition becoming keener every day, further postponement of these appointments will prove detrimental to the interest of Indian trade?

The Honourable Sir Joseph Bhoré: The attention of the Honourable Member is invited to the reply given to parts (a) and (c) of starred question No. 980 on the 30th September, 1932.

Mr. S. G. Jog: Will Government please state whether it is the policy of the Government to appoint I. C. S. officers to these posts?

The Honourable Sir Joseph Bhoré: I would not state the policy of the Government in any such definite form.

Mr. S. G. Jog: How many I. C. S. officers are holding the posts of Trade Commissioners at present?

The Honourable Sir Joseph Bhoré: My Honourable friend will realise that I am somewhat new to this Department and I would not like to give him incorrect information. If he would kindly allow me to make enquiries, I will give him the information he wants later on.

Dr. Ziauddin Ahmad: Are I. C. S. officers supposed to be experts in trade also?

The Honourable Sir Joseph Bhoré: Not necessarily, Sir. They might be.

SUBJECT-MATTERS OF INVESTIGATION BY THE TARIFF BOARD.

1228. *Mr. Nabakumar Sing Dudheria: Will Government be pleased to state:

- (a) the subjects or matters that have been investigated by the Tariff Board since its establishment;
- (b) the subjects or matters that are yet proposed to be investigated by that Board;
- (c) the person or body or institution or department of the Government that prescribes from time to time the subjects or matters that should form the subject-matters of that Board's investigation; and
- (d) what sort of commercial bodies and associations are consulted in prescribing the subject-matters of investigation by the Board?

The Honourable Sir Joseph Bloor: (a) A statement giving the required information is laid on the table.

(b) The Board is at present engaged in an enquiry into the question of protection to the Cotton Textile Industry. It is not possible to say what other applications for protection will be referred to the Board thereafter.

(c) and (d). The Honourable Member is referred to the Resolution of the Government of India, Department of Commerce, No. 8748, dated the 10th July, 1923, which was published in the Gazette of India of the 14th July, 1923, a copy of which is in the Library.

Tariff Board's Reports.

Subject of Tariff Board's Reports.

- Grant of protection to the Steel Industry (1924).
- Removal of the import duty on sulphur (1924).
- Increase of duties on Steel (1924).
- Grant of protection to the Magnesium Chloride Industry (1924).
- Grant of protection to the Printers' Ink Industry (1924).
- Grant of protection to the Cement Industry (1925).
- Grant of protection to the Paper and Paper Pulp Industries (1925).
- Grant of Supplementary protection to the Steel Industry (1925).
- Removal of the duty on Spelter and enhancement of the duty on imported galvanised hardware (1926).
- Grant of protection to the Wire and Wire Nail Industry (1926).
- Grant of protection to the Coal Industry (1926).
- Grant of protection to the Ship-building Industry (1926).
- Continuance of protection to the Steel Industry (1927).
- Changes in the tariff entries relating to Printing Paper (1927).
- Grant of protection to the Cotton Mill Industry (1927).
- Tariff equality in respect of the manufacture of Camel hair, cotton and canvas ply belting (1927).
- Grant of protection to the Plywood and Tea Chest Industry (1927).

Grant of protection to the manufacture of Railway wagons and under frames, Component parts thereof, and Wire and Wire Nails (1927).

Grant of protection to the Match Industry (1928).

Grant of protection to the Oil Industry (1928).

Tariff equality in respect of the manufacture of electric wires and cables (1926).

Tariff equality in respect of the manufacture of Printing Type (1929).

Tariff equality in respect of the manufacture of Manila rope (1929).

Salt Industry 1930.

Sugar Industry 1931.

Additional protection for Galvanised Sheets (1930).

Gold Thread Industry (1930).

Certain Railway Materials made of Steel (1930).

Steel Rails (1931).

Removal of the Revenue Duty on Pig Iron (1930).

Heavy Chemical Industry (1929).

Magnesium Chloride Industry (1929).

Paper and Paper Pulp Industries (1931).

Wire and Wire Nail Industry (1931).

Manufacture of Electric Wires and Cables (1931).

Additional protection to the Cotton Textile Industry (1932).

Protection to the Glass Industry.

GOVERNMENT OF INDIA BILL.

1229. *Mr. Nabakumar Sing Dudheria: Will Government be pleased to state:

- (a) whether their attention has been drawn to the item of news that appeared in a recent issue of the *Mussalman* which says that the Government of India Bill, that is to be introduced by His Majesty's Government in Parliament next year, was drafted early in May or June, 1931, long before the Second Round Table Conference was held in London;
- (b) if the answer to part (a) be in the affirmative and the news be untrue,
 - (i) what steps they have taken to deny the news; and
 - (ii) whether they are aware that similar rumour has gained currency everywhere in the country even long before the report in the *Mussalman* was published;
- (c) if the answer to part (b) (ii) be in the affirmative, whether they propose to issue a *communiqué* forthwith denying such report and also enlighten the House with a true statement of facts bearing on the subject?

The Honourable Sir Brojendra Mitter: (a) and (b). Government have seen statements to the effect referred to by the Honourable Member. I can assure him that there is no foundation whatsoever for them. The procedure which His Majesty's Government proposed to adopt has been explained in His Excellency's address to the Legislative Assembly on the 5th September last. I would also invite the Honourable Member's attention to the report contained in a Reuter's message of the 8th November of a statement made by the Secretary of State in answer to a question

in Parliament that the whole purpose of the procedure of the Joint Select Committee is to obtain full observations and criticisms of Government proposals put forward in the form not of a Bill but of a White Paper by Parliamentary and Indian representatives before the Government of India Bill is introduced in Parliament.

(c) The statement I have just made should be sufficient to dispel any doubts, which may exist in the public mind and the Government do not propose to issue a communiqué in the matter.

Mr. Gaya Prasad Singh: Do I understand that the forthcoming Round Table Conference is the last edition of this costly farrago, or is there going to be another edition of it?

Mr. B. V. Jadhav: It all depends upon circumstances.

(No answer.)

POWER-HOUSES OWNED BY THE EAST INDIAN RAILWAY

1230. ***Mr. Nabakumar Sing Dudhoria:** Will Government be pleased to state:

- the number of Power-Houses that the East Indian Railway system owns;
- the names of places where there are such Power-Houses;
- the names of Resident and Assistant Engineers at each such Power-House;
- the qualifications in detail of every such Resident and Assistant Engineer; and
- the pay and emoluments enjoyed by each of such Resident and Assistant Engineer?

Mr. P. R. Rau: I have called for certain information and will lay a reply on the table, in due course.

RETRENCHMENT OF A NUMBER OF INCOME-TAX OFFICERS IN THE UNITED PROVINCES.

1231. ***Mr. Bhuput Singh** (on behalf of Lala Rameshwar Prasad Bagla): (a) Are Government aware that the services of a number of Income-tax Officers in the United Provinces were recently terminated abruptly by the Income-tax Commissioner for the United Provinces and the Central Provinces?

(b) If the reply to part (a) be in the affirmative, will Government please state the reasons for the same?

(c) Will Government please state the principle followed in respect of the retrenchment of these officers?

(d) Is it a fact that the Income-tax Department in the United Provinces is under re-organisation?

(e) Will Government please state if the services of the above officers have been cut short under the new re-organisation scheme?

The Honourable Sir Alan Parsons: (a) Five Income-tax Officers have been retrenched. They were given more than 2 months' notice.

(b) and (c). The officers were selected in accordance with the principles laid down by the Government to govern retrenchment.

(d) Yes. In view of the prevailing financial stringency it was decided to reduce the cost of the United Provinces Income-tax establishment by the concurrent expedients of retrenchment and re-organisation on the system already adopted elsewhere.

(e) This is answered by what I have just said.

Mr. S. G. Jog: Has the amalgamation of the Central Provinces Income-tax Office with the United Provinces Income-tax Commissioner's office resulted in any economy?

The Honourable Sir Alan Parsons: I imagine so, Sir, but the amalgamation took place before I came in as Finance Member and this question has not come before me. I should have to look up the papers before I could give a definite answer.

Mr. S. G. Jog: Will the Honourable Member kindly make enquiries and give a reply sometime later on?

The Honourable Sir Alan Parsons: I will certainly lay a statement on the table giving the information required by my Honourable friend.

Mr. S. G. Jog: Is the arrangement final or is it only in the experimental stage?

The Honourable Sir Alan Parsons: As I just now informed my Honourable friend, I did not myself deal with this case and I cannot, therefore, answer immediately a question which does not directly arise out of the question put to me by the original questioner.

Dr. Ziauddin Ahmad: Will the principle laid down by the Government about retrenchment be followed in this case also, that is, in the case of officers of the Income-tax Department?

The Honourable Sir Alan Parsons: Yes, Sir.

Mr. F. E. James: Can the Honourable Member inform the House whether the gratuities, paid to these officers who have been retrenched, are subject to income-tax and, if so, whether that is the case with regard to all Government servants who are retrenched?

The Honourable Sir Alan Parsons: No, Sir. I cannot inform the House without looking up the point.

Dr. Ziauddin Ahmad: May I ask whether these persons who are already retrenched are eligible for lower appointments for which fresh appointments are now being made? I do not know whether I have made myself clear. In the United Provinces, in the Income-tax Department, certain Inspectors on lower grade have been recruited. Are these men, who have already been retrenched in higher grades, eligible for appointments in the lower grade?

(b) Is it a fact that Mr. Muir vehemently opposed the scheme as recently as March, 1982?

(c) Will Government please state if the new Income-tax Commissioner for the United Provinces and the Central Provinces was consulted on the desirability of introducing the new scheme in the United Provinces? If so, when?

(d) Will Government please state if the new Income-tax Commissioner for the United Provinces and the Central Provinces favoured the scheme?

(e) Did Government instruct him to consult the Assistant Income-tax Commissioners and other senior officers of the Department?

(f) Did the Income-tax Commissioner consult any of the officers of the Department in the United Provinces with regard to the scheme? If so, whom?

(g) What view of the scheme was taken by these officers?

(h) Is it a fact that the Central Board of Revenue, finding that no officer of the Department in the United Provinces was agreeable to the scheme, abolished the post of the Income-tax Commissioner of the United Provinces and put the province in the hands of the Income-tax Commissioner of the neighbouring province, viz., Central Provinces?

(i) Is it a fact that the Association of the Assistant Commissioners and Income-tax Officers sent a representation to the Central Board of Revenue, protesting against the scheme?

(j) Is it a fact that the said Association also sought permission to wait on the Central Board of Revenue?

(k) Was their request granted? If not, why not?

(l) Will Government please state if they fully considered the question as to whether the efficiency of the Income-tax Department in the United Provinces will in any way suffer under the new scheme?

The Honourable Sir Alan Parsons: (a) to (g). I regret that I am not prepared to disclose what departmental discussions took place before the re-organisation was decided upon, or what views on it were held by various officers subordinate to the Central Board of Revenue.

(h) No.

(i) and (j). Yes.

(k) A member of the Central Board of Revenue agreed to receive a deputation while he was at Lucknow, but the Association said they had no time to arrange for one on the day fixed by him.

(l) Of course; otherwise they would not have introduced it.

RE-ORGANISATION OF THE INCOME-TAX DEPARTMENT IN THE UNITED PROVINCES.

1236. ***Mr. Bhuput Singh** (on behalf of Lala Rameshwar Prasad Bagla):

(a) Is it a fact that the expenditure of the Income-tax Department in the

Central Provinces and Punjab after re-organisation is about 12 and 9 per cent., respectively, of the income of the department?

(b) Is it a fact that the expenditure of the Income-tax Department in the United Provinces before re-organisation has been only about eight per cent. of its income?

(c) If the replies to parts (a) and (b) be in the affirmative, will Government please state why the retrenchment has not yet been effected in the Punjab and the Central Provinces where the percentage of expenditure is higher?

The Honourable Sir Alan Parsons: (a) The expenditure in the Central Provinces is about 8 per cent. of the revenue and in the Punjab about the same. There has been no re-organisation of the departments in these Provinces since they were first formed.

(b) The expenditure in the United Provinces is between 5 per cent. and 6 per cent. of the revenue.

(c) Because it was not considered that there was any scope for such retrenchment in those Provinces.

Dr. Ziauddin Ahmad: Has the expenditure in the United Provinces diminished on account of this re-organisation?

The Honourable Sir Alan Parsons: Yes, Sir. About Rs. 15,000 per annum.

Mr. Lalchand Navalrai: Will the Honourable Member be pleased to state if retrenchment has taken place in other provinces in the Income-tax Department?

The Honourable Sir Alan Parsons: Not in the same way.

Mr. Lalchand Navalrai: May I now in what way?

The Honourable Sir Alan Parsons: The organisation which is now being introduced in the United Provinces was in force in the other provinces before and is a cheaper organisation. All that was done in this case was to introduce in the United Provinces the cheaper organisation which had been in force in Bengal and other provinces and which had proved to be very efficient there.

Mr. Lalchand Navalrai: What is the way of making retrenchments in the Bombay Presidency?

The Honourable Sir Alan Parsons: I am afraid the Honourable Member must give me notice of a question of that kind. I am only dealing here with the re-organisation of the Income-tax Department in the United Provinces.

Mr. S. G. Jog: Is it not a fact that the Income-tax Officer who has been brought into the Central Provinces is senior to the United Provinces man?

The Honourable Sir Alan Parsons: I have not the least idea.

(b) What is the total increased expenditure of Government on account of the introduction of this new form of assessment in India?

(c) Do Government propose to continue this form of assessment or do they contemplate discontinuing it?

The Honourable Sir Alan Parsons: (a) A statement showing the amount of tax on lower-incomes assessed and collected in each Province up to September, 1982, is laid on the table. The total number of persons assessed could only be ascertained by a special compilation in all Income-tax Offices which I am not prepared to direct.

(b) The expenditure on this account cannot be stated at present. The provision of Rs. 12,85,000 in the Budget is not likely to be exhausted

(c) I cannot foretell the provisions of the next Finance Bill.

Serial No.	Province.	Amount fallen due.		Collections.	
		Arrears.	Current.	Arrears.	Current.
		Rs.	Rs.	Rs.	Rs.
1	Madras	12,296	2,60,192	21,589	2,42,045
2	Bombay	28,989	8,12,027	26,002	5,84,507
3	Bengal	14,341	2,35,324	12,593	1,59,163
4	United Provinces	13,457	1,85,447	9,988	1,16,264
5	Punjab	24,986	2,05,424	23,065	1,99,861
6	Burma	9,622	1,45,676	8,200	1,36,241
7	Bihar and Orissa	9,732	1,50,328	8,236	81,596
8	C. P. and Berar	4,558	97,276	4,482	84,449
9	Assam	1,005	60,890	839	47,486
10	N. W. F. Province	3,609	23,408	2,707	19,393
11	Delhi	3,157	23,740	2,608	11,753
	Total	1,25,752	21,99,642	1,10,194	16,83,358
			23,25,394		17,93,552

Mr. Lalchand Navarai: Is it in contemplation that this assessment will be discontinued?

The Honourable Sir Alan Parsons: I must repeat what I said in reply to part (c), that I cannot foretell the provisions of the next Finance Bill.

Dr. Ziauddin Ahmad: Is the Honourable Member contemplating that in the next Finance Bill he will alter the rates under Customs also?

The Honourable Sir Alan Parsons: I am just as unable to prophesy what will be done in the next Finance Bill with regard to Customs rates.

Dr. Ziauddin Ahmad: Are we to understand that in the next Bill changes of the Customs Duties Act will again be altered in the month of March?

The Honourable Sir Alan Parsons: I should not advise my Honourable friend to understand anything of the sort at present.

INCOMES FROM HIGHER GRADE ASSESSMENTS AND APPEALS AND REFERENCES BEFORE THE ASSISTANT COMMISSIONER AND COMMISSIONER OF INCOME-TAX.

1240. ***Mr. Bhuput Singh:** (a) Will Government be pleased to state whether there has been any drop in incomes from higher grade assessments as compared with the previous years? If so, how much is the drop in each province in India?

(b) Are Government aware that appeals and references before the Assistant Commissioner and Commissioner of Income-tax remain pending for about a year and are not even then disposed of? If so, what are the reasons for these inordinate delays in giving justice?

(c) What steps are being proposed to be taken to prevent such delays and to secure the speedy disposal of appeals and references in future?

(d) Is it a fact that in all cases of references under section 66 of the Indian Income-tax Act, instructions have got to be taken by the Commissioners from the Central Board of Revenue as to the effect the acceptance may have on the fiscal and other aspects of the question?

(e) Do the Commissioners consult Government Advocates and Legal Remembrancers on the points of law raised, before giving their final decisions?

The Honourable Sir Alan Parsons: (a) A statement is placed on the table showing the number of assesseees in each grade in each Province in the 3 years 1929-30 to 1981-82.

(b) and (c). No. If any specific cases of inordinate delay are brought to the notice of the Central Board of Revenue they will investigate the cause of the delays and take steps to prevent such delays recurring if possible

(d) All draft references to the High Court are submitted to the Central Board of Revenue who advise the Commissioners on the legal points involved and the manner of their presentation.

(e) I am not sure to what "final decisions" the Honourable gentleman refers. So far as I am aware, Commissioners do not consult their legal advisers before disposing of Revision petitions. They usually, perhaps invariably, consult their legal advisers in regard to the drafting of references to the High Courts.

Statement showing the number of officers in each grade in the various Provinces in the years 1929-30 to 1931-32.

Grades.	Madras.	Bombay.	Bengal.	U. P.	Punjab.	Burma.	B. & O.	C. P.	Assam.	N.-W. Delhi F. P.	India Central and other Minor Administrations.	Total.
1. 2,000 to 2,499 .	6,828	18,653	7,571	5,817	5,107	5,933	2,286	3,292	971	663	1,662	68,331
2. 2,500 to 2,999 .	5,370	8,668	5,077	3,212	3,508	3,996	1,476	1,846	545	438	819	40,365
3. 3,000 to 3,499 .	4,532	9,902	4,287	2,734	2,924	3,009	1,366	1,496	496	355	890	33,129
4. 3,500 to 4,999 .	7,901	12,224	7,737	2,759	4,936	4,257	2,720	2,670	660	660	1,489	53,971
5. 5,000 to 7,499 .	6,915	10,520	6,833	3,343	4,065	3,343	2,508	2,061	920	508	832	49,011
6. 7,500 to 9,999 .	3,434	4,876	4,261	1,927	2,007	1,970	1,191	999	473	202	440	23,963
7. 10,000 to 12,499 .	1,925	3,537	2,231	920	1,011	1,245	828	535	336	153	283	14,398
8. 12,500 to 14,999 .	1,936	1,819	1,201	438	538	798	378	270	130	52	132	7,395
9. 15,000 to 19,999 .	1,295	2,061	1,611	577	637	926	473	340	176	77	238	9,497
10. 20,000 to 24,999 .	663	1,266	801	269	357	519	242	170	135	35	106	5,094
11. 25,000 to 29,999 .	431	647	500	184	178	313	125	82	30	17	109	2,876
12. 30,000 to 39,999 .	372	761	628	160	142	369	128	94	25	22	131	2,876
13. 40,000 to 49,999 .	233	433	233	83	74	206	80	34	16	19	65	1,488
14. 50,000 and over .	289	753	616	131	108	369	107	50	16	24	36	2,504
15. Unclassified .	722	967	4,562	1,118	334	533	605	108	88	4	275	18,301
Total	42,036	73,307	47,989	25,773	25,918	27,797	14,591	14,047	5,407	3,102	7,499	39,259
												3,26,719

QUESTIONS AND ANSWERS.

1930-31.

1. 2,000 to 2,499 .	6,601	17,891	7,458	5,340	5,206	5,249	2,373	3,205	983	669	1,772	10,784	67,529
2. 2,500 to 2,999 .	5,178	8,594	4,698	3,165	3,273	3,562	1,462	1,903	504	484	1,001	5,727	39,551
3. 3,000 to 3,499 .	4,397	6,756	4,043	2,714	2,747	3,053	1,404	1,596	463	407	915	4,220	32,715
4. 3,500 to 4,999 .	7,853	12,199	7,419	4,394	4,417	4,248	2,488	2,728	950	639	1,420	7,049	55,804
5. 5,000 to 7,499 .	6,590	9,660	6,772	3,332	3,736	3,267	2,378	2,149	887	456	932	5,692	45,861
6. 7,500 to 9,999 .	3,427	4,566	4,006	1,568	1,813	1,962	1,171	1,051	518	222	460	2,044	22,808
7. 10,000 to 12,499 .	1,838	3,014	2,174	813	936	1,247	714	492	320	154	306	1,677	13,685
8. 12,500 to 14,999 .	1,115	1,606	1,197	532	473	744	339	275	170	91	167	898	7,607
9. 15,000 to 19,999 .	1,254	1,902	1,492	559	549	820	405	318	194	87	166	1,101	8,847
10. 20,000 to 24,999 .	711	970	748	248	310	478	221	152	109	46	145	503	4,641
11. 25,000 to 29,999 .	429	575	414	156	150	276	121	84	40	31	92	241	2,609
12. 30,000 to 39,999 .	413	625	432	152	126	289	148	93	37	16	107	180	2,358
13. 40,000 to 49,999 .	223	390	209	87	63	141	62	29	16	6	63	15	1,304
14. 50,000 and over .	237	675	537	110	92	244	100	54	15	19	57	14	2,154
15. Unclassified .	724	1,305	4,876	1,184	327	491	661	162	113	4	294	426	10,567
Total .	40,990	70,728	46,473	24,354	24,218	26,071	14,047	14,291	5,319	3,331	7,897	40,511	3,18,240

Grades.	Madras.	Bombay.	Bengal.	U. P.	Punjab.	Burma.	Bihar and Orissa.	C. P.	Assam.	N.W. F. P.	Delhi.	Central and other Minor Administrations.	Total.
1. 2,000 to 2,499	6,718	16,782	7,993	5,095	5,764	5,631	2,640	2,994	1,000	786	1,851	9,713	66,976
2. 2,500 to 2,999	5,233	8,009	4,787	2,916	3,271	3,023	1,634	1,558	439	519	1,091	5,688	38,116
3. 3,000 to 3,499	4,137	6,168	3,434	2,254	2,423	2,254	1,271	1,273	390	438	912	4,694	29,003
4. 3,500 to 4,999	7,512	11,324	6,653	4,044	4,035	3,929	2,623	2,236	841	419	1,381	6,766	51,769
5. 5,000 to 7,499	5,755	8,214	5,626	2,900	3,156	3,206	2,147	1,753	790	399	899	4,861	39,680
6. 7,500 to 9,999	2,843	4,026	3,334	1,432	1,481	1,604	1,034	693	419	155	445	1,964	19,398
7. 10,000 to 12,499	1,466	2,222	1,562	689	780	957	593	356	267	112	306	1,312	10,651
8. 12,500 to 14,999	828	1,339	1,004	392	531	590	304	214	145	52	191	1,093	6,651
9. 15,000 to 19,999	1,027	1,615	1,162	447	578	783	371	217	154	73	188	1,042	7,657
10. 20,000 to 24,999	473	794	552	225	303	421	168	97	274	38	159	503	3,782
11. 25,000 to 29,999	295	498	338	112	160	162	113	61	33	18	144	237	2,176
12. 30,000 to 39,999	283	500	346	132	124	208	104	65	31	9	114	103	2,019
13. 40,000 to 49,999	118	260	174	56	51	114	44	29	46	11	91	17	987
14. 50,000 to 99,999	134	401	248	69	69	151	59	29	26	12	57	6	1,243
15. 1,00,000 and over	37	179	123	24	5	28	16	11	...	6	3	4	436
16. Unclassified	855	1,307	7,021	1,614	381	471	632	3,766	876	593	119	1,362	14,796
Total	37,714	63,637	45,157	22,401	23,162	23,532	13,753	11,779	4,700	3,099	7,919	38,486	2,95,332

DETENTION OF PACKAGES OF COPIES OF DIWAN CHAMAN LAL'S BOOK
COOLIE AT THE ROYAL ALBERT DOCKS, LONDON.

1241. *Mr. Bhuput Sing: (a) Will Government be pleased to state whether they are aware that the packages of copies of Diwan Chaman Lal's book *Coolie* which had been held by the Customs officials in docks, was delivered to the consignee after three weeks' detention since its arrival at Royal Albert Docks on September 9th, 1982?

(b) Did the Customs officials in India examine these books before accepting these for transport to London? If so, what was the necessity of a further test in London?

(c) Has there been any correspondence between the Indian and British Governments over the detention of the packages at the docks? Are Government aware that the packages were soiled and the consignee had to suffer serious losses? What reply, if any, has been received from the British Government?

The Honourable Mr. H. G. Haig: (a) and (c). No.

(b) Since there is no export duty or prohibition applicable to the export of books, it is unlikely that the books were examined by the Customs Department in India at the time of exportation.

MEMORIAL TO THE ASSEMBLY OF THE LEAGUE OF NATIONS ON BEHALF
OF THE INTERNATIONAL COMMITTEE FOR INDIA RE THE POLITICAL
SITUATION IN INDIA.

1242. *Mr. Bhuput Sing: (a) Will Government be pleased to state whether any memorial signed by the leading international workers of most of the European national workers including M. Lievens of Belgium, Dr. Winternitz of Czechoslovakia, M. Georges Hoog and Madame Morin of France, Mrs. Marguerite Cousins of Ireland, Mr. Wilfred Wellock, and Mrs. Pethwick Lawrence of England, M. Bokkeb Lesson of Norway, and Madame Gertrude Baer of Germany outlining the conditions prevailing in India and expressing that the Ordinances should be repealed and political prisoners released, has been submitted to the Assembly of the League of Nations on behalf of the International Committee for India?

(b) Has the memorial appealed to the delegates of the Assembly to take any possible action for promoting better relationship between Great Britain and India and has it emphasised that the problem of India involves world peace?

(c) Has the memorial been accepted by the League of Nations and what steps, if any, have the delegates taken upon it?

(d) Was the memorial submitted through the Indian Delegates or directly to the League?

The Honourable Sir Brojendra Mitter: (a) to (d). Government have seen a newspaper report on the subject but have no further information.

APPLICATIONS SUBMITTED BY INDIAN FIRMS AND INDUSTRIES BEFORE THE RAILWAY RATES ADVISORY COMMITTEE AGAINST VARIOUS RAILWAYS CHARGING UNFAIR RATES.

1243. **Mr. Bhuput Sing:** (a) Will Government be pleased to state whether applications have been submitted by several Indian firms and industries before the Railway Rates Advisory Committee against various Railways charging unfair rates which hamper their growth and prosperity to a great extent?

(b) Has there been any complaint by the salt merchants of the Sambhur Lake that lower freights are quoted by the East Indian and Bengal and North-Western Railways for imported salt from Howrah to certain sections on the latter Railway while the same Railway as well as the Bombay, Baroda and Central India Railway charge heavy rates on traffic from Sambhur?

(c) Is it a fact that the Central Provinces and Berar Mining Association have complained against the Bengal Nagpur Railway that the rates they are charging on manganese ore meant for export have led to the capture of a great part of their continental market by Russian products?

(d) If the answers to parts (a), (b) and (c) be in the affirmative, what steps, if any, have been taken to remove the grievances?

(e) Do Government contemplate forming a separate Ministry of Transport and Communications to adjudicate the conflicting interests of different markets and trades and so to inform the Railways as to secure a co-ordination of rates? If not, why not?

(f) What provision is proposed to be made for this department in the new constitution shortly to be introduced in this country?

Mr. P. R. Rau: (a) and (b). Yes.

(c) The Central Provinces and Berar Mining Association have complained against the rates charged by the Bengal Nagpur Railway for manganese ore traffic booked to Bombay.

(d) The complaints have been, or are being, investigated and reported upon by the Railway Rates Advisory Committee. In some cases the complaints were withdrawn; in others a compromise was arrived at; in still others the Government of India have passed or will pass orders on the reports submitted by the Railway Rates Advisory Committee.

(e) and (f). No such proposal is at present under active consideration but this suggestion will I daresay be among those that will be examined along with other details of the new constitution.

Dr. Ziauddin Ahmad: In view of the fact that the Railway Department at present is a step-child of the Commerce Member, is it not desirable to bring this fact to the notice of the Round Table Conference for a discussion of this question?

The Honourable Sir Joseph Bhave: I do not think Sir, the question calls for any answer from me.

SPEECH BY SIR RUSTOM VAKIL, MINISTER OF LOCAL SELF-GOVERNMENT, BOMBAY, AT THE ALL-INDIA INDUSTRIAL EXHIBITION, IN REGARD TO THE "BUY BRITISH" AND "BUY INDIAN" MOVEMENTS.

1244. **Mr. Bhuput Sing:** (a) Will Government be pleased to state whether their attention has been drawn to the speech of Sir Rustom Vakil, Minister of Local Self-Government, Bombay, at the All-India Industrial Exhibition in the course of which he contrasted the "Buy British" and "Buy Indian" movements and insinuated against the "Buy Indian" campaign?

(b) Has the attention of Government been drawn to the Indian merchants' press note in this connection which concludes "It would be most serious if the Swadeshi movement is going to be condemned by the Government directly or indirectly, merely because more advanced political views and elements in India also advocate it. Do the Government put it forward as a test of good citizenship that a man should import foreign goods and use them even when similar goods are produced in India?"

(c) Has there been any correspondence between the Government of India and the Bombay Government on the subject? If so, what?

The Honourable Mr. H. G. Haig: (a) I have seen a Press report of the speech which does not seem to me to bear out the description given by the Honourable Member.

(b) I have seen the Press note.

(c) The Government of India addressed all Local Governments calling their attention to the letter dated 11th April, 1932, from the Private Secretary to His Excellency the Viceroy to the Western India National Liberal Association, Bombay.

Mr. Lalchand Navalrai: Will the Honourable Member be pleased to state what is the view of the Government of India with regard to this "Buy Indian" movement?

The Honourable Mr. H. G. Haig: The Honourable Member has already addressed a number of questions to me on this subject and received a number of answers. I have nothing to add to the answers I have previously given to him.

Mr. Lalchand Navalrai: So far as I remember, I never put any question with regard to this "Buy Indian".

The Honourable Mr. H. G. Haig: I may be doing my Honourable friend an injustice, but certainly I have answered within the last two months a large number of questions on this subject.

Mr. Lalchand Navalrai: Do the Government of India agree with the statement made by the Honourable the Minister of Bombay?

The Honourable Mr. H. G. Haig: I should be glad if my Honourable friend will quote the precise statement which he has in mind.

3752

LEGISLATIVE ASSEMBLY. [16TH NOVEMBER 1932.]

Mr. Lalchand Navai: It is stated in the question that the Honourable the Minister contrasted the "Buy British" and the "Buy Indian" movements and insinuated against the "Buy Indian" movement. What I want to know is, if these are not the facts, what are the exact facts? What exactly did he say and what was the effect of it?

The Honourable Mr. H. G. Haig: I must refer the Honourable Member to the report of the speech itself. But, as I said in my original reply, the description of the speech given in the question did not seem to me to be a fair description of it.

LETTER FROM A GROUP OF SCOTTISH MISSIONARIES TO THE SCOTTISH MEMBERS OF THE PARLIAMENT IN REGARD TO THE ORDINANCES.

1245. ***Mr. Bhuput Sing:** (a) Will Government be pleased to state whether they are aware that a group of Scottish Missionaries connected with India have addressed a letter to the Scottish Members of the Parliament saying that the rule by Ordinances has created bitter resentment amongst all classes of people in India and among many of those who were previously consistently friendly in their attitude towards Government?

(b) If so, has a copy been forwarded to the Government of India and what reply, if any, has been sent to it?

The Honourable Mr. H. G. Haig: (a) and (b). I have seen a Press report of the letter referred to by the Honourable Member; no copy has been sent to the Government of India, and the question of a reply does not arise.

DELAY IN DELIVERING AN INSURED LETTER SENT BY ONE MR. SRI PRAKASH FROM THE KABIR CHOURA POST OFFICE OF BENARES TO SRI HARI SHANKAR BIDYARTHI, EDITOR OF DAINIK PRATAP.

1246. ***Mr. Bhuput Sing:** (a) Will Government be pleased to state whether their attention has been drawn to a message from Cawnpore, dated the 6th October, 1932, published in the 'Dainik Pratap' of 8th October, 1932, under the heading 'Post Bibhag ka Suprabandh'?

(b) If so, is the allegation contained therein correct that an insured letter sent by Mr. Sri Prakash, from Kabir Choura Post Office of Benares, on the 29th March, 1932, addressed to Sri Hari Shankar Bidyarthi, Editor of 'Dainik Pratap' reached him on the 6th October, 1932, after six months and eight days?

(c) If the answer to part (b) be in the affirmative, what is the reason for the inordinate delay and who is responsible for it?

(d) What steps have been taken to prevent such delays in future?

Mr. T. Ryan: (a) Government have now seen the message.

(b) to (d). The matter is being investigated and a reply will be placed on the table in due course.

RUNNING OF A THROUGH TRAIN VIA LOOP LINE.

1247. ***Mr. Bhuput Sing:** (a) Will Government be pleased to state, with reference to the proposal made in the meeting of the East Indian Railway Advisory Committee held in Calcutta on the 27th February, 1932

(viz., that Nos. 41 up and 42 down trains be extended up to Dinapore as before for the convenience of passengers to and from Bhagalpur and Patna, which was rejected on the ground that the traffic offering did not justify the proposed extension) whether they have considered the question of extending the service to Delhi to meet the administrative difficulty?

(b) Will Government be pleased to state whether they are aware that the running of a through train via the Loop Line is the demand of all sections of people residing in that part of the country for more than a quarter of a century?

(c) Do Government propose to appoint an expert committee of inquiry to report whether it is possible at all to give effect to this scheme and what are the difficulties in the way, if the scheme be totally impracticable?

Mr. P. R. Rau: (a) I have sent a copy of the question to the Agent, East Indian Railway, for consideration.

(b) Government are aware that there have been frequent requests for the running of such a through train.

(c) No.

DECISION ON THE OTTAWA AGREEMENTS BY THE VOTE OF THE NON-OFFICIAL MEMBERS OF THE LEGISLATIVE ASSEMBLY.

1248. **Mr. B. Sitaramaraju:** Will Government be pleased to state whether the decision on the Ottawa Agreements will be left to the vote of the non-official Members of the Assembly?

The Honourable Sir Brojendra Mitter: The reply is in the negative.

DEPORTATION OF FEMALE CONVICTS TO THE ANDAMANS.

1249. ***Mr. Goswami M. R. Puri** (on behalf of Rai Bahadur Sukhraj Roy): (a) Will Government be pleased to state whether Srimati Bina Das, B.A., accused in the Governor shooting case, and some other female prisoners are shortly going to be transferred to the Andamans?

(b) If so, what are the grounds for the said transfer and on whose recommendations has the proposal for the transfer emanated?

(c) Was the attention of Government drawn to the recommendations of the Jails Committee presided over by Sir Alexander Cardew regarding the transfer of prisoners to the Andamans, as given in 626 Vol. 1 "that the deportation to the Andamans of all female convicts should be put an end to as soon as possible"?

(d) Have the general health and moral conditions in the Andamans changed in any respect since the above recommendations were made? If so, in what respects and how?

(e) Are Government aware of the strong public resentment prevailing in the country against such transfers?

The Honourable Mr. H. G. Haig: (a) and (b). As indicated in my reply to Mr. S. C. Mitra's starred question No. 511 on the 20th September last, the principle has been accepted of sending female terrorist convicts to the Andamans should it be considered desirable to do so. At the moment it is not proposed to take any action.

(c) The Honourable Member will find an answer to his question in the reply which I gave to Mr. S. C. Mitra's starred question No. 511 on the 20th September last.

(d) I would refer the Honourable Member to my reply to Mr. S. C. Mitra's starred questions Nos. 511, 514, 515 and 517 on the same date.

(e) Government are not aware of the feeling described by the Honourable Member.

ROUND TABLE CONFERENCE.

1250. *Mr. Goswami M. R. Puri (on behalf of Rai Bahadur Sukhraj Roy): (a) Will Government be pleased to state whether the delegates to the Round Table Conference were invited by the Prime Minister on his own initiative or on the recommendations of the Government of India?

(b) In what cases were these recommendations accepted and in what cases were they not accepted by the Prime Minister?

(c) What is the total amount of money proposed to be spent in connection with the Round Table Conference and the proportion in which it is to be borne by the Indian and British Governments?

The Honourable Sir B. L. Mitter: (a) The Honourable Member no doubt realises that these matters are not the concern of the Governor General in Council. Invitations are issued by His Majesty's Government.

(b) Does not arise.

(c) The expenditure from Indian Revenues is estimated to amount to about Rs. 1.9 lakhs. In addition about Rs. 70,000 are expected to be incurred in England on account of compensatory allowance to delegates. It is anticipated that His Majesty's Government will bear this expenditure as well as that connected with the Conference proper including a proportion of the cost of the Secretariat, Social Secretary, etc.

GOVERNMENT OF INDIA BILL.

1251. *Rai Bahadur Sukhraj Roy: (a) Will Government be pleased to state whether their attention has been drawn to the news given currency to by *The Mussalman* that the Government of India Bill that is to be introduced by His Majesty's Government next year was drafted or was being drafted as early as May or June, 1931, that is, long before the Second Round Table Conference which the Congress was prevailed upon to attend?

(b) If so, is there any truth in the news?

(c) Is it a fact that the Third Round Table Conference will not be allowed to stray beyond the White Paper?

(d) What is the exact time by which the new India Bill is proposed to be introduced in the British Parliament and the date by which the new constitution will begin to work in India?

The Honourable Sir B. L. Mitter: (a) and (b). The Honourable Member is referred to the reply given to Mr. Nabakumar Sing Dudhioria's question No. 1229 today.

(c) The Honourable Member is referred to the speech delivered to this House by His Excellency the Viceroy on the 5th September, 1932.

(d) The Honourable Member is referred to the reply given to part (a). of starred question No. 100 on the 7th September last.

REMOVAL OR REDUCTION OF IMPORT DUTIES ON FOREIGN WHEAT.

1252. *Rai Bahadur Sukhraj Roy: Will Government be pleased to state:

(a) whether their attention has been drawn to the strong and persistent rumour current in the wheat market that the Government of India, in implementing the secret Agreements arrived at in the last Ottawa Conference, will remove or at any rate reduce the existing import duty of Rs. 2-8-0 per cwt. on foreign wheat entering the Indian ports, and that in consequence, Australian wheat will enter the Indian ports at no distant date;

(b) if so, whether or not the existing import duties on foreign wheat entering India are proposed to be removed or reduced; if to be reduced, to what extent; and

(c) what the likely date is when such removal or reduction is expected to come into operation?

The Honourable Sir Joseph Bhore: (a) The Government of India have heard of such rumours but as the Honourable Member is now doubtless aware there is nothing in the Trade Agreement made at Ottawa affecting the Indian import duty on wheat.

(b) and (c). The Government of India are at present unable to indicate the future course of the wheat import duty which, under existing legislation, is in force till the 31st March, 1933, but whatever the course, it will be solely dictated by the interests of this country.

RELEASE OF MAHATMA GANDHI.

1253. *Rai Bahadur Sukhraj Roy: (a) Will Government be pleased to state with reference to the recent exchange of correspondence between His Excellency the Viceroy and Maulana Shaukat Ali, regarding the release of Mahatma Gandhi for the Unity Conference, what were the objections in releasing him only to enable him to take part in the Conference or at least in allowing the Maulana free interviews with the Mahatma in jail?

(b) Was the sudden stoppage of interviews with the Mahatma by political leaders after the Poona Pact ordered by the Bombay Government on their own initiative or upon instructions from the India Government or His Majesty's Government?

(c) Are Government aware that these measures have brought about a lurking suspicion in the minds of many Indians that the Government having become nervous over the Poona Pact are trying to prevent the different communities of India from coming to a settlement among themselves, as part of their *Divide et Impera* policy?

(d) If so, what steps have been taken by them to allay these suspicions?

The Honourable Mr. H. G. Haig: (a), (c) and (d). I have nothing to add to the replies I gave on the 7th November, 1932, to the short notice question by Mr. B. Das and on the 14th November to the question by Mr. Lalchand Navalrai and the various supplementary questions.

(b) The action taken was in accordance with the policy of the Government as a whole.

GENERAL POLICY OF THE POSTAL DEPARTMENT IN REGARD TO THE TRANSMISSION OF PRESS MESSAGES.

1254. ***Rai Bahadur Sukhraj Roy:** Will Government be pleased to state:

- (a) if their attention has been drawn to the statement made in newspapers regarding the press message sent by Maulvi Muhammad Yasin, Chairman of the Burdwan Municipality, regarding his wholehearted support of Hindu-Muslim-Sikh-Unity pourparlers, which was handed over to the Postmaster, Thakurgaon, in the Dinajpur District, but which the latter refused to transmit;
- (b) if so, why and, on what grounds, the refusal was made;
- (c) whether it was done with the approval of the authorities or on his own initiative; and
- (d) what the general policy of the Postal Department is regarding the transmission of press messages?

Mr. T. Ryan: (a) No; but as the result of enquiries now made, it is understood that the press message to which the Honourable Member refers was one addressed by Maulvi Muhammad Yasin to the Associated Press, Calcutta, on the 14th October, 1932.

(b) and (c). The message was considered objectionable by the civil authority and the telegraph office was, therefore, advised to intercept it.

(d) The attention of the Honourable Member is invited to section 5 of the Indian Telegraph Act, and to Rules 15 and 180 of the Indian Telegraph Rules, 1932.

PRACTICE OF MILITANT USURY PREVAILING IN INDIA.

1255. ***Rai Bahadur Sukhraj Roy:** Will Government be pleased to state:

- (a) whether their attention has been drawn to the practice of militant usury prevailing in India under which industrial workers suffer untold misery and harassment at the hands of creditors;
- (b) what recommendations have been made by the Whitley Commission and the Banking Committee in this respect; and
- (c) whether any speedy action is being contemplated to be taken to afford relief to the long suffering mass of primary workers?

The Honourable Sir Frank Noyce: (a) Government are aware that industrial workers are sometimes subjected to harassment and intimidation by creditors.

(b) The recommendations of the Whitley Commission are contained in Chapter XIII of their Report, a copy of which is in the Library of the House. The Central Banking Committee made no recommendations specially applicable to industrial workers.

(c) I am sorry that I am not in a position to promise rapid action in respect of most of the Whitley Commission's recommendations relating to indebtedness as they raise issues of importance which require careful examination. But Government have reached provisional conclusions on some of them and I hope next session to present to this House a Bill which will include provisions designed to prevent delays in the payment of wages.

Mr. K. Ahmed: Are Government aware that wages of workers are not attachable as recommended by the Royal Commission on Labour?

The Honourable Sir Frank Noyce: The Honourable Member is a greater authority on the recommendations of the Royal Commission than I am.

Dr. Ziauddin Ahmad: Will the Honourable gentleman consider that the labourers in agricultural fields should also get the benefit of this Bill he is contemplating?

The Honourable Sir Frank Noyce: Their case will certainly be considered, but I can make no promise of the kind suggested by my Honourable friend.

Dr. Ziauddin Ahmad: I thought that the condition of these workers in agricultural fields was more pitiable than the workers in urban areas?

The Honourable Sir Frank Noyce: That may be so, but the conditions of agricultural employment are very different from those of industrial employment.

APPALLING CONDITION OF IMMIGRANTS RETURNING FROM EAST AFRICA AND OTHER FOREIGN COUNTRIES.

1256. ***Rai Bahadur Sukhraj Roy:** (a) Will Government be pleased to state whether their attention has been drawn to the appalling condition of immigrants who have returned from East Africa and other foreign countries under compulsion?

(b) Are Government aware that many thousands of them paraded the streets of Calcutta the other day to seek shelter and food?

(c) What steps do Government propose to take to give redress to these helpless people?

(d) Is there any proposal for constructing new works to provide employment for these people and to obtain cheap labour?

(e) Are any steps being proposed to be taken to prevent the incoming, in such large numbers, of immigrants at a time, by making necessary arrangements with the Governments of the countries concerned?

(f) Do the Agents on behalf of India in the different countries help in this matter? If not, why not?

Mr. G. S. Bajpai: As the subject matter of the Honourable Member's question has roused a certain amount of public interest recently, I hope, Sir, that you will permit me to explain it in some detail.

The immigrants referred to by the Honourable Member have not returned under compulsion either from East Africa, or any other foreign country, nor do they number several thousands. So far as the Government of India are aware, their number does not exceed 850. The

majority of them hail from British Guiana, Trinidad and Surinam. All of them came back of their own free will, with the help of passages to which they were entitled under the terms of the contracts under which they originally migrated to the colonies. Nor are many of them recent arrivals. At least, a considerable number would appear to have been settled at Matiabruz for several years. The Government of India have, at intervals, received petitions that they should be sent back at Government expense either to the colonies from which they came or to some other colony. Government have not found it possible to accede to such requests. Since 1921, nearly 70,000 emigrants have returned to this country from the colonies, excluding Malaya, Ceylon and East Africa. There is no reason to assume that economically and socially India has treated them differently from the small group who have congregated at Matiabruz. If financial assistance were given to these latter to re-emigrate, on the ground that they find conditions in India uncongenial, it would be impossible to refuse similar assistance to the much larger number who have settled elsewhere in India, or who might hereafter return from the colonies, and the drain thus imposed on Government resources would be continuous and incalculable. Attempts were made in 1926 and 1928 to persuade the Governments of British Guiana and Fiji to take back, at their own expense, some of the emigrants who had returned from these colonies, and 350 and 173 respectively were thus sent back. Efforts were also made to find an outlet for some of the Matiabruz colony in Malaya, but without success. The prevailing economic depression rules out all prospect of successful negotiation with the Governments of the Colonies from which they came to take them back, for the tendency all over the world now is to discourage fresh immigration while the depression lasts. The only course, therefore, open to the Government of India is to endeavour to persuade these people to go back to those places in the interior of India to which they originally returned from the colonies, and to find work for them there suited to their capacities and aptitudes. Considering that the vast majority of those who have returned from the colonies appear to have been absorbed in the mass of the population, there is no reason why the small proportion now at Matiabruz should not be similarly accommodated, provided that they are willing to adapt themselves to Indian conditions in the same spirit in which other returned emigrants have done. The Government of India can think of no other satisfactory solution. Meanwhile, on the recommendation of the Government of Bengal, they have sanctioned a grant of Rs. 2,000 for the immediate relief of physical distress which is said to prevail among these returned emigrants.

Mr. K. Ahmed: In view of the fact that the Honourable Member's statement does not contain, it seems, why, and what are the reasons that, these people, so many, and in thousands, are coming back and repatriated to this country . . . ?

Mr. G. S. Bajpai: My Honourable friend, Sir, did not specify what my statement does not contain. Presumably I am expected to answer the latter part of his question, namely, whether thousands of emigrants are coming back to India. The reply is in the negative.

Mr. K. Ahmed: In view of the fact that the Honourable Member has admitted himself that so many are stranded at Matiabruz and some at Calcutta and so many are still coming from Malaya and other places, such as South Africa, Trinidad, etc.—and if he will exercise his

mathematical experience, he will find that the number will not in any way be below thousands,—or even if that is not admitted by him that he is not a mathematician, perhaps my friend, Dr. Ziauddin Ahmad, will enlighten him on that point,—what I am asking is, why, all of a sudden, a good many people have made up their minds and have come away from South Africa, Trinidad, etc., . . .

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order. Would it not be more convenient if the Honourable Member put a direct supplementary question, one at a time?

Mr. K. Ahmed: Just to save the time of the House, Sir, and to enable the Honourable Member in charge to answer the whole question, I am putting the question this way. (Laughter.) However, I bow to your ruling, and I will put him the question—is that so or not? (Loud Laughter.)

Mr. G. S. Bajpai: I confess, Sir, that this somewhat entangled jumble of bad mathematics and wrong inferences is completely unintelligible to me.

Dr. Ziauddin Ahmad: May I understand that Government would have no objection to send these people back to the Colonies from which they came if their expenses are paid for?

Mr. G. S. Bajpai: No, Sir; Government would have no objection whatsoever to send these people back to the Colonies if their expenses are paid for, and the Governments of the Colonies concerned are also prepared to take them back.

Dr. Ziauddin Ahmad: That is a different issue altogether. I understood that the Government had no objection to send these people back, and there was no difficulty on the other side, I mean in the Colonies?

Mr. G. S. Bajpai: Sir, it is perfectly true that I did state that Government would have no objection to sending these people back, but I purposely added the qualification about the readiness of the other Governments, because, as the Honourable Member is aware, investigations have been made in the past in regard to outlets for the surplus of India's population in Mauritius and British Guiana, and we have been told that it might be unwise to permit such further emigration, because it might have an adverse effect upon the standard of living on the people living there.

Dr. Ziauddin Ahmad: So it is not true that the Colonies are not prepared to take them back?

Mr. G. S. Bajpai: No, Sir, that is not true. I have stated in my answer that in 1926 British Guiana had agreed to take 350. . . .

Dr. Ziauddin Ahmad: Now?

Mr. G. S. Bajpai: Now, I cannot say, it is very unlikely.

Dr. Ziauddin Ahmad: Will the Honourable Member kindly make inquiries from these Colonies whether they are prepared to take these people back if their expenses are paid for?

Mr. G. S. Bajpai: I think most of them have had casual employment of some kind or other. But now-a-days, because of the depression they find it difficult to find employment in Calcutta or elsewhere.

Mr. Gaya Prasad Singh: Do I take it that the Government of India are now prepared to communicate with the Local Governments concerned, and ask them to evolve some scheme by which these people may be persuaded to go back to their villages from which they came?

Mr. G. S. Bajpai: I have already answered that question in the affirmative.

Bhai Parma Nand: If it is found on enquiry that the Colonial Governments are prepared to take them back, would the Government of India be ready to send them back free of cost?

Mr. G. S. Bajpai: I have already explained that the Government of India will not be in a position to incur any expense themselves on sending them back to the Colonies, but if they are willing to go back to the Colonies and somebody, whether the Colonial Government or private enterprise, undertakes the expense, and if the Colonial Governments are willing to take them back, of course, there will be no objection to their going back.

Mr. Lalchand Navalrai: Will the Honourable Member be pleased to state if the communication of the Bengal Government indicates any terms on which these people will be taken back?

Mr. G. S. Bajpai: The first thing that the Government of India have to make sure of is that these people would really want to go back, because efforts made in the past to induce them to find some work in this country have not been very successful. As soon as the Government of India hear from the Government of Bengal that there is a prospect of inducing these people to go back, the necessary arrangements will be made.

MONOPOLY BY NON-LOCAL EMPLOYEES IN THE GOVERNMENT DEPARTMENTS OF BALUCHISTAN.

1257. ***Seth Haji Abdoola Haroon:** (a) Will Government be pleased to state whether it is a fact that almost all Government Departments of Baluchistan are monopolised by the non-local employees?

(b) Is it a fact that no locals are employed either in the executive or in the ministerial staffs of the following departments:

1. Political Department,
2. Intelligence Bureau,
3. Investigation Department,
4. Excise Department,
5. Military Engineering Service, and
6. Quetta Municipality.

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(c) Will Government be pleased to place on the table a statement, showing separately, the total number of officers of all grades and clerks in each of the above Departments and how many of them belong to Baluchistan and how many are aliens?

(d) Will Government be pleased to state whether it is a fact that in the railways, there are only two locals working as assistant guards, while in the ministerial branch of the same department, there is only one local clerk?

Mr. H. A. F. Metcalfe: With your permission, Sir, I propose to answer questions Nos. 1257 and 1259 to 1262 together. The information is being collected and will be given to the House in due course.

OFFICERS AND CLERKS WORKING IN THE POSTS AND TELEGRAPHS DEPARTMENT OF BALUCHISTAN.

1258. ***Seth Haji Abdoola Haroon:** Will Government be pleased to state the total number of officers of all grades and clerks working in the Posts and Telegraphs Department of Baluchistan?

The Honourable Sir Frank Noyce: 180 of whom 159 are clerks.

STAFF WORKING IN THE CIVIL DEPARTMENTS OF BALUCHISTAN.

† 1259. ***Seth Haji Abdoola Haroon:** Will Government be pleased to state the total number of:

- (a) Naib Tahsildars,
- (b) Tahsildars,
- (c) Extra Assistant Commissioners,
- (d) Junior Assistants,
- (e) Senior Assistants,
- (f) Head Clerks, and
- (g) Office Superintendents,

working in the Civil Departments of Baluchistan and show how many of each of these belong to Baluchistan and how many are aliens?

SUPERIOR POSTS IN THE GOVERNMENT DEPARTMENTS OF BALUCHISTAN.

† 1260. ***Seth Haji Abdoola Haroon:** Are Government aware that all superior posts are held by foreigners in the Government Departments of Baluchistan and that no chance is made available to local men when there is a vacancy of a superior post?

UNPAID OR TEMPORARILY PAID LOCAL CANDIDATES IN THE REVENUE COMMISSIONER'S AND SUBORDINATE OFFICES IN BALUCHISTAN.

† 1261. ***Seth Haji Abdoola Haroon:** Are Government aware that in the Revenue Commissioner's and subordinate offices in Baluchistan, there are several local youths, who are unpaid or temporarily paid candidates in some cases for the last seven or eight years, but have not yet been taken up permanently?

† For information, see answer to question No. 1257.

ADEQUATE REPRESENTATION OF LOCAL PEOPLE IN THE VARIOUS GOVERNMENT DEPARTMENTS OF BALUCHISTAN.

†1262. *Seth Haji Abdoola Haroon: (a) Are Government aware that though orders have been issued by local authorities in Baluchistan with regard to the encouragement to be given to locals, yet the same are not being carried out by the officers in charge? If so, why?

(b) Are Government aware that several appeals have since been made to the authorities concerned with regard to this state of affairs, but in vain?

(c) Do Government realise the necessity of an adequate representation of locals in the various Government Departments of Baluchistan? If so, what specific action do they propose to take to safeguard the interests of Baluchistan men, so that their strength in Government Departments might be increased adequately?

MEMBERS OF THE QUETTA MUNICIPALITY.

1263. *Seth Haji Abdoola Haroon: (a) Will Government be pleased to state whether it is a fact that the Quetta Municipality is not an elected body and members thereof are nominated by the Local Government?

(b) Is it a fact that the number of locals in it is insignificant?

(c) Will Government be pleased to state the total number of members of the Quetta Municipality, showing separately the number of those belonging to Baluchistan, and of aliens?

Mr. H. A. F. Metcalfe: With your permission, Sir, I will answer questions Nos. 1263, 1264 and 1265 together. Information is being obtained from the local administration and will be given to the House when it is received.

FEASIBILITY OF PROMOTING THE QUETTA MUNICIPALITY TO AN ELECTED BODY.

†1264. *Seth Haji Abdoola Haroon: (a) Is it a fact that the Political Agent, Quetta, recommends confidentially the names of members of the Quetta Municipality to the Honourable the Agent to the Governor General, who accepts the names?

(b) Are Government prepared to consider the feasibility of promoting the Quetta Municipality to an elected body so that the people of the soil might be adequately represented?

APPOINTMENT OF LOCAL PEOPLE IN THE STAFF OF THE QUETTA MUNICIPALITY.

†1265. *Seth Haji Abdoola Haroon: Are Government aware that in the staff of the Quetta Municipality there is no local employee? If so, are Government prepared to issue orders to the authorities concerned at Quetta to the effect that in future any post that falls vacant may be reserved for locals, so as to raise their number to an adequate level?

†For answer to this question, see answer to question No. 1257.

†For answer to this question, see answer to question No. 1263.

NOMINATION OF LOCAL PEOPLE TO THE CANTONMENT BOARD, QUETTA.

1266. *Seth Haji Abdoola Haroon: (a) Is it a fact that there are no locals nominated to the Cantonment Board, Quetta?

(b) If so, do Government propose to nominate locals to safeguard the interests of the people of Baluchistan?

Mr. G. R. F. Tottenham: (a) Yes.

(b) The matter is one for the Local Government to whom a copy of the question is being sent.

Dr. Zahidul Ahmad: May I ask what is the Local Government in this case?

Mr. G. R. F. Tottenham: The Agent to the Governor General, Baluchistan.

DETAILS OF ALL GRADES OF OFFICERS AND CLERKS WORKING IN THE POSTAL DEPARTMENT, MULTAN DIVISION.

1267. *Seth Haji Abdoola Haroon: (a) Has the attention of Government been drawn to an article under the heading "Serious grievances of Muslim Employees", which was published in the *Eastern Times* of Lahore on the 27th October, 1932?

(b) If the answer to part (a) be in the affirmative, will Government be pleased to state whether the contents thereof are correct? If not, will they please lay on the table a statement showing the correct details of all grades of officers and clerks working in the Postal Department, Multan Division, and the correct numbers of the employees belonging to each of the following communities:—(i) Hindus, (ii) Muslims and (iii) Christians?

(c) Are Government aware that the existing proportion of Muslims in the above department is inadequate? If so, what action do they propose to take to remove the communal inequality and to safeguard the rights of Mussalmans?

The Honourable Sir Frank Noyce: (a) Government have seen the article.

(b) Government have not enquired into the allegations. Even if it be the case that Muslims are only slightly represented in a particular division it does not follow that any mistake has been made, since, as I stated in reply to a supplementary question on the 14th instant, postings are not made as a rule with reference to communal considerations. No "correct numbers" as asked for by the Honourable Member can therefore be specified.

(c) The Honourable Member is aware of the regulations regarding recruitment of members of the minority communities which Government are making every effort to enforce.

I would add that a copy of the Honourable Member's question is being sent to the Postmaster-General.

COLLECTION OF LOCAL CESS FROM ZAMINDARS IN BRITISH BALUCHISTAN.

1268. *Seth Haji Abdoola Haroon: (a) Will Government be pleased to state whether the system of collection of local cess from Zamindars is prevailing in British Baluchistan?

(b) If so, what is the approximate annual revenue from that source?

Mr. G. S. Bajpai: (a) and (b). Enquiries have been made from the Local Administration, and a reply will be laid on the table of the House in due course.

ADVISABILITY OF ESTABLISHING LOCAL BOARDS IN BRITISH BALUCHISTAN.

1269. *Seth Haji Abdoola Haroon: (a) Will Government be pleased to state whether there are District Local Boards in British Baluchistan?

(b) If not, are Government prepared to consider the advisability of establishing local boards in British Baluchistan in order to introduce local self-government? If not, why not?

Mr. H. A. F. Metcalfe: (a) There are no District Local Boards in British Baluchistan.

(b) It is not considered advisable to establish Local Boards in British Baluchistan. The system is not regarded as being suitable to Baluchistan which is a country of immense distances sparsely populated by a nomadic people mainly pastoral in occupation.

Mr. Lalchand Navalrai: Will the Honourable Member kindly say what the public opinion there is with regard to District Boards and Local Boards?

Mr. H. A. F. Metcalfe: My information comes from the Local Administration which is presumably in touch with local opinion.

EXPENSES ON THE OTTAWA DELEGATION.

1270. *Mr. Nabakumar Sing Dudhorla: Will Government be pleased to state:

- the respective amounts drawn by way of (1) monthly allowance, (2) daily hotel allowance, (3) outfit and voyage expenses, by each of the Indian members of the Delegation to the Ottawa Conference;
- the respective amounts drawn by way of (1) monthly allowance, (2) daily hotel allowance, (3) outfit and voyage allowance, by each of the British members of the Delegation to the Ottawa Conference;
- the date from which and the date up to which each member of the Indian Delegation was allowed those allowances;
- how much was expended on the Secretariat staff; and
- whether there was any Indian on the Secretariat staff?

The Honourable Sir Joseph Shore: A statement giving the information, as far as it is available at present, is laid on the table.

Statement showing allowances of members of the Indian Delegation to the Imperial Economic Conference, Ottawa, and expenditure connected with the Secretariat Staff.

(i) Monthly allowance.

Non-officials.—(Personal compensatory allowance at the rate of £100 a month)—

	£	s.	d.
Sir Padamji Ginwala, from 9th May, 1932 to 19th September, 1932.	437	10	6
Mr. R. K. Shanmukham Chetty, from 4th May, 1932 to 31st August, 1932.	453	13	1
Seth Haji Abdoola Haroon, from 1st June, 1932 to 31st August, 1932.	363	6	8
Sahibzada Abdus Samad Khan, from 15th June, 1932 to 19th September, 1932.	316	13	4

Officials.—(Pay)—

Sir George Rainy (Pay at 3-4ths of Rs. 4,000 less 10 per cent.) from 17th May, 1932 to 22nd September, 1932.	853	19	8
Sir George Schuster (Pay at 3-4ths of Rs. 6,666-10-8 less 15 per cent.) from 18th June, 1932 to 19th August, 1932.	719	14	9

(ii) Daily Hotel allowance and voyage expenses.

Information as to the actual amounts drawn by each Member as daily hotel allowance and voyage allowance and the periods for which these were drawn is not yet known as payments were made by the High Commissioner for India in London but the rates, admissible to all Members alike except where otherwise stated, were as follows:—

Compensatory daily allowance of 25 shillings to each Member, except Sir George Schuster whose allowance was fixed at 16s. 8d., for days spent on duty in London;

First class return passages and a voyage allowance of 15 shillings a day for the voyages from London to Canada and back; and

An allowance of 2½ dollars a night in Canada.

First class return passages were also granted to such members as travelled from India to London and back.

(iii) Outfit allowance.

An outfit allowance of £37-10-0 was paid to Mr. R. K. Shanmukham Chetty.

(iv) Expenditure on the Secretariat Staff.

Exclusive of the pay and allowances of the Secretary and Expert Advisers, the total expenditure on the Secretariat staff was £1,069-18-4. There was no Indian on the Secretariat Staff as in order to save passage and other expenses from and to India no staff was taken from this country.

PRESENTATION OF THE REPORT OF THE PUBLIC ACCOUNTS COMMITTEE.

The Honourable Sir Alan Parsons (Finance Member): I present the second part of the Report of the Public Accounts Committee dealing with the Railway Accounts of 1930-31.

Report of the Public Accounts Committee on the Accounts of 1930-31.

PART II.—RAILWAY ACCOUNTS.

Position as regards estimating.

1. The following table compares the original estimates made before the beginning of the year, the revised estimates prepared near its end, and the actual results :—

	(Lakhs of Rs.)		
	Budget.	Revised.	Actuals.
(1) Traffic receipts (less refunds)	107.75	95.00	95.10
(2) Miscellaneous receipts	1.75	1.78	1.73
(3) Working expenses	70.18	67.30	67.46
(4) Miscellaneous expenditure	62	69	68
(5) Surplus profits	1.22	1.15	1.16
(6) Interest charges	31.40	32.76	32.73
(7) Surplus (+) or deficit (—)	6.08	—5.12	—5.19
(8) Contribution to general revenues	5.74	5.74	5.74
(9) Payment to (+) withdrawal from (—) Reserve	34	—10.86	—10.93

2. The large differences between the Budget estimates on the one hand and the Revised estimates and final actuals on the other are due to the fact that the former were based on hopes of normal conditions with a moderate increase in both passenger and goods traffic, hopes which were completely falsified as a result of the continuance of the economic depression. Compared with the revised estimates, the actual receipts were only Rs. 5 lakhs more and the actual expenditure Rs. 12 lakhs more with the result that the deficit on the working of railways during the year was more by only Rs. 7 lakhs. But as pointed out by the Director of Railway Audit, this favourable result has been brought about by two counterbalancing divergencies referred to in paragraphs 46 and 47 of his Report. On the whole we share the feeling of the Director that there has generally been no improvement in the position in 1930-31 over that in 1929-30.

Position as regards control of expenditure.

3. The following table compares the final voted grants with the expenditure against those grants :—

	(Lakhs of Rs.)				
	Original grant.	Supplementary grant.	Final grant.	Actual expenditure.	Excess + Saving —.
<i>Expenditure charged to revenue.</i>					
1. Railway Board	12.90	.15	13.05	13.39	+ .34
2. Inspection	2.50	..	2.50	2.37	— .13
3. Audit	17.75	..	17.75	16.24	—1.51
4. Working expenses, Administration.	13,88.50	..	13,88.50	14,07.20	+18.70
5. Repairs, Maintenance and Operation	41,10.25	..	41,10.25	38,22.12	—2,88.13
6. Payment of surplus profits	1,22.00	..	1,22.00	1,16.30	—5.70
9. Appropriation to Depreciation Fund	13,25.00	..	13,25.00	13,06.53	—18.47
11. Miscellaneous expenditure	17.30	..	17.30	17.45	+ .15
12. Appropriation to Reserve Fund	33.95	..	33.95	..	—33.95
14. Strategic lines	1,63.75	7.95	1,71.70	1,73.37	+1.67

<i>Expenditure charged to capital and Depreciation and Reserve Funds.</i>					
7. New construction	4,98.00	..	4,98.00	4,23.24	—74.76
9. Open line works	11,49.00	..	11,49.00	8,74.03	—2,74.97
10. Appropriation from Depreciation Fund	8,50.00	50.00	9,00.00	11,39.59	+2,39.59
13. Appropriation from Reserve Fund	..	10,85.99	10,85.99	10,92.35	+6.36
15. Strategic lines—Capital	25.00	..	25.00	20.51	—4.49

4. The non-voted appropriations sanctioned by the Government of India and the expenditure against those appropriations are given below :

	(Lakhs of Rs.)				
	Original appropriation.	Supplementary appropriation.	Final appropriation.	Actual expenditure.	Excess + Saving —.
<i>Expenditure charged to revenue.</i>					
1. Railway Board	3.20	.41	3.61	3.57	— .04
2. Inspection	2.00	.06	2.06	1.96	— .10
3. Audit	1.95	— .18	1.77	1.63	— .14
4. Working expenses, Administration	43.50	—1.10	42.40	43.60	+1.20
5. Repairs, Maintenance	1.50	— .46	1.04	.97	— .07
11. Miscellaneous expenditure	4.20	7.77	11.97	11.29	— .68
14. Strategic lines	3.85	.17	4.02	3.85	— .17

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	(Lakhs of Rs.)				
	Original appropriation.	Supplementary appropriation.	Final appropriation.	Actual expenditure.	Excess + Saving —.
<i>Expenditure charged to capital.</i>					
7. New construction	2.00	— .03	1.97	2.00	+ .03
8. Open line works	1.00	— .48	.52	1.14	+ .62
15. Strategic lines		— .05	— .05	— .05	
Interest on Debt	30,04.06	1,34.39	31,38.45	31,33.96	— 4.49
Interest on Capital contributed by companies	1,36.12	1.42	1,37.54	1,37.59	+ .05

5. We give in paragraph 7 below the reasons for the excesses over voted grants which require the vote of the Legislative Assembly. The number of excesses, which was six in the year under report, compares unfavourably with the numbers in 1929-30 and in 1928-29 which were four and three respectively. The excesses over non-voted appropriations numbered four in 1930-31 against five in 1929-30 and two in 1928-29. The percentage of individual excesses, votable and non-votable, varied from .03 per cent. to 2.83 per cent. under heads of expenditure charged to revenue and from .58 per cent. to 118.70 per cent. under capital heads.

As regards savings, they varied from .14 per cent. to 23.93 per cent. under individual heads the biggest savings occurring under the Capital grants, 7, 8 and 15. Taking the total railway expenditure, both voted and non-voted, there was a saving of Rs. 2.98 lakhs or 2.83 per cent. under expenditure charged to revenue and a saving of Rs. 1.14 lakhs or 4.39 per cent. under Capital expenditure. The position in this respect compares as follows with the last two years :

<i>Expenditure charged to revenue.</i>			
(excluding appropriations to and from the Reserve Fund.)			
	(Lakhs of Rs.)		
Year.	Final grant and appropriation.	Savings.	Percentage of Col. (3) to Col. (2).
(1)	(2)	(3)	(4)
1928-29	98.67	— 44	.45
1929-30	101.55	— 66	.64
1930-31	1,05.11	— 2.98	2.83

<i>Expenditure charged to capital.</i>			
(including expenditure met from the Depreciation Fund.)			
1928-29	39.50	— 55	1.39
1929-30	45.03	— 3.08	6.84
1930-31	25.74	— 1.14	4.39

We have no doubt that the financial stringency which manifested itself during the year and which has not yet disappeared has forced on the railway administrations a much more rigid control of expenditure than might otherwise have been exercised. If, as we are assured, this control is maintained without relaxation, the stress and strain of the present period will at least have had the result of raising the general standard of financial control on all railways. We shall deal in later paragraphs with certain handicaps under which the present system of control of expenditure works and the remedial measures proposed.

Excess over voted grants.

6. We now proceed to deal briefly with the excesses over voted grants, which require regularisation by excess votes of the Legislative Assembly. The excesses are as follows :—

Item No.	No. of grant.	Grant.	Amount voted by the Assembly.	Excess.
			Rs.	Rs.
1	1	Railway Board	13,05,000	34,327
2	4	Working expenses, Administration	13,88,50,000	18,70,248
3	10	Appropriation from Depreciation Fund	9,00,00,000	2,39,58,961
4	11	Miscellaneous	17,30,000	14,960
5	13	Appropriation from Reserve Fund	10,85,99,000	6,36,160
6	14	Strategic lines	1,71,70,000	1,67,449

7. The individual items of excess are explained below :—

Item 1.—The excess was mainly due to higher printing charges than were contemplated when the revised estimate was framed.

Item 2.—The excess, which occurred mainly under contribution to the Provident Fund and gratuities, was due to the extension of the benefits of the Provident Fund to workshop staff and to the payment of extra gratuities on retrenchment.

Item 3.—More than two-thirds of the excess is attributed to unexpected adjustments in rectification of transactions incorrectly accounted for in previous years and the balance was due to exceptionally heavy carry-forwards from the previous year.

Item 4.—The excess was the result of a number of small variations in a miscellaneous collection of sub-heads.

Item 5.—The excess reflects the extent of the variation of the financial results of the year from anticipations.

Item 6.—Heavier freight charges for fuel purchased at the end of the year to replenish stock chiefly accounted for the excess.

8. We recommend that the Assembly should assent to the excess grants detailed in paragraph 6 above.

Reappropriation not made in accordance with prescribed rules.

9. Under rule 52 (2) (ii) of the Indian Legislative Rules we are required to bring to the notice of the Legislative Assembly every reappropriation within a grant which is not made in accordance with such rules as may be prescribed by the Finance Department. We give below with our comments the cases brought to our notice by the Director of Railway Audit.

(i) *Distribution of allotments after the close of the year.*—Such distribution is reported to have been made on the South Indian and the North Western Railways. The Financial Commissioner has rightly taken no cognizance in his Appropriation Accounts of the orders of reappropriation which were sanctioned after the close of the year. There are, however, some cases where the sanctions to reappropriation were actually accorded before the close of the

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year but communicated to subordinate authorities only after the year. Although effect has been given to such reappropriation in the Appropriation Accounts, the Financial Commissioner informed us that the Railway Department realised that postponement of reappropriation till towards the end of the year was not conducive to sound financial control and that general instructions had been issued emphasising the importance and necessity of making reappropriations as and when they were required during the course of the year instead of at the end of the year. We do not think that any further action is called for.

(ii) *Reduction of a voted grant.*—The Railway Board issued orders in March 1931 reducing the grant under the head "Appropriation to the Reserve Fund" to "nil", when it became clear that the net results of the year would necessitate a withdrawal from the Reserve Fund. A grant once voted by the Legislative Assembly cannot be withdrawn or reduced and the Financial Commissioner has rightly taken no cognizance of the orders of the Railway Board in his Appropriation Accounts. The position is now correctly understood by all concerned and we have no further observations to make.

(iii) *Utilization of unanticipated credits.*—More than one instance has been given by the Director of Railway Audit where unanticipated credits have been utilized to increase the supply at the disposal of spending authorities. We have already made a recommendation on this subject in the First Part of our Report which we desire to reiterate. No controlling officer should be permitted to utilize, in order to increase his spending power, any unanticipated credits. The Director of Railway Audit has made certain proposals in paragraph 49 of his Report for carrying out this recommendation and the Financial Commissioner has in paragraph 89 of his Review brought out certain intricate points which require settlement in this connection. Subject to the observance of the general principle which we have enunciated, we are content to leave these detailed questions to be settled by the Railway Department in consultation with the Auditor General.

Comments on matters outstanding from previous reports.

10. *Form of the Appropriation Accounts.*—The Public Accounts Committee of last year suggested certain improvements in the form and presentation of Railway Appropriation Accounts of which the most important were that the appropriation accounts should be accompanied by a general picture of the financial results of the year, a general survey of the state of the financial administration as disclosed by the accounts and an analysis of the results of the scrutiny conducted by the Railway accounts department as part of the internal check of Railway accounts. It was intended that the material compiled in this form should be available to the Director of Railway Audit before he wrote his report, which was thus to be complementary to and based on the material supplied by the Financial Commissioner. In pursuance of these recommendations we have been furnished with a Review of the Appropriation Accounts prepared by the Financial Commissioner and a Summary of the working results of all Railways prepared by the Chief Commissioner of Railways and the Financial Commissioner. We are satisfied that, subject to what is stated below, our requirements in regard to the information as regards Railway receipts and expenditure and the facilities for financial control have been fully complied with.

11. *Owing to the fact that the Public Accounts Committee held its session unusually late last year and the Appropriation Accounts had reached an*

advanced stage of preparation by the time the Committee's recommendations were actually made, it has been found possible to furnish the two reviews referred to in the previous paragraph only after the publication of the Appropriation Accounts in the old form and after the Director of Railway Audit had issued his report. The result has been that, as pointed out by the Auditor General, the Director's Report has on the present occasion not taken into account all the material furnished by the Financial Commissioner and therefore lacks the full value it should possess. Another incidental disadvantage has been a certain amount of duplication in the presentation of the results. We realize that the summary of the working results of railways cannot be made available earlier than September each year but we do not see any reason why the Financial Commissioner's review of the financial administration as disclosed by the Appropriation Accounts should not be prepared in time for use by the Director of Railway Audit. It is only a question of the convenient adjustment of the dates and we are glad that the Financial Commissioner has at our instance undertaken to endeavour to send his appropriation accounts with his review to the Director by the middle of April so as to enable the latter to submit his report to the Auditor General by the middle of May. We thus hope that in future years it will be possible to eliminate the minor defects in procedure noticed in the current year and that the report of the Director will as a result be greatly simplified.

12. The Public Accounts Committee of last year commented on the absence in the Railway Appropriation Accounts of an analysis of the results of the audit scrutiny conducted by the Railway accounts department as part of its internal check of railway accounts. A somewhat similar observation was made in respect of the presentation of the results of the audit scrutiny of military works expenditure carried out by the Military accounts department. We were informed both by the Financial Adviser, Military Finance, and by the Financial Commissioner of Railways that the discovery of irregularities was only a small part of the duties of the separated accounts department, that their more important duties lay in preventing, rather than in discovering, irregularities and overpayments, and that if the analysis was intended to be an estimate of the efficiency or otherwise of the internal check conducted by the accounts department, material for this could most easily be found in the results of the independent check conducted by the test audit staff which are presented in the reports of the respective Directors. We agree in this view which is also shared by the Auditor General and we recommend that the present practice, under which the scrutiny of irregularities and the selection and presentation of those deemed sufficiently important to be published is placed in the hands of an independent audit authority, should be continued. What is required is a pooling of the discoveries of the two agencies, the accounts department and the test audit staff, and a scrutiny of the material so collected to see, for instance, whether it indicates any general tendency which should be checked or any defect in rules or procedure which should be corrected. We consider it essential that the accounts departments both on the Railway and Army sides should place at the disposal of the test audit staff all material in its possession showing its activities connected with internal audit scrutiny and that, in particular, it should communicate to the test audit staff all irregularities at an early stage of their detection, so that the latter may be enabled to perform its functions satisfactorily and to present to us and to the legislature as accurate a picture as possible of the state of the financial administration of the two largest departments of the Central Government.

13. *Form of the Director's Report.*—Our predecessors also suggested some improvements in the form of the report of the Director of Railway Audit.

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Agreeing with these suggestions the Auditor General instructed Mr. Badenoch to investigate along with the possibilities of retrenchment in the Railway Audit Department the directions in which test audit could be more usefully directed and how the form of presentation of the results of the test audit could be improved. We have been furnished with a copy of Mr. Badenoch's report. We discussed the proposals made therein with the Auditor General and we may state our conclusions under three broad headings :—

(i) *Proposals regarding the extent and the direction of test audit of railway transactions.*—We considered these proposals from the point of view of financial control by the legislature and we were assured by the Auditor General that except for the fact that the Director's report prepared under the proposed plan would be somewhat less broadly based than at present, there would be no appreciable diminution in the information and the facilities now supplied to the Committee for the purpose of its scrutiny of the railway accounts. We were also anxious to know whether the proposed limited audit was sufficient to perform satisfactorily the true functions of test audit, that is to say, whether it would secure that the accounts of railways were sufficiently checked by the Auditor General's staff so as to discover if there was anything seriously wrong with the financial administration of railways. We were informed by Mr. Badenoch that one of the principles underlying this proposal was that the whole field of railway transactions must be covered by the test audit but that after a careful examination of all classes of transactions he had proposed different percentages of test audit for different transactions, keeping in view the necessity of fixing the percentages so as to allow the audit department to judge fairly well the efficiency of the financial administration of railways as a whole. We express our general agreement with Mr. Badenoch's proposals subject to a definite limitation that if at any time the Auditor General considers that the amount of check applied by the test audit staff to any particular class of transactions is insufficient, the fact that we have now agreed to the reduction of the scope of test audit should in no way debar him from immediately coming up for increasing its scope and if necessary, increasing the staff for this purpose.

(ii) *Proposals as regards the method of presentation of the results of test audit.*—In effect these proposals would, in the opinion of the Auditor General, enable the Director to present to the Committee the same type of report as it has received this year, probably with certain improvements consequent on the changes which have already been agreed to in regard to the presentation of the appropriation accounts by the Financial Commissioner and further improvements which would result from the adoption of certain other proposals mentioned in the next section of our report. We accept the general proposals made by Mr. Badenoch without, however, desiring to bind the Director exactly to the details given in his report.

(iii) *Proposals for retrenchment.*—We do not wish to express any opinion on the individual proposals made by Mr. Badenoch. While leaving them to be dealt with in the ordinary way, we have asked to be furnished in due course with a statement of the actual action taken on these proposals. We, however, desire to emphasise that in our view the scope for retrenchment in Railway Audit is limited and in view of the volume and complexity of Railway transactions any drastic attempt at retrenchment may involve risks, which can not be lightly undertaken.

14. *Railway electrification schemes.*—The Public Accounts Committee last year desired that the financial effects of electrification on various railways should be scientifically studied by the Railway Board. The Director of

Railway Audit has made a laudable attempt to get at the results of working of the Bombay electrification schemes. The Railway Board has also furnished us with a valuable memorandum on the subject. So far as the Chola Power House is concerned, both the Railway Board and the Director agree that the Power House is actually working economically and efficiently and that the increase in the cost per unit is due to the fall in traffic consequent on the present exceptional depression. So far as the main line electrification schemes are concerned, unlike the Power House separate capital and revenue accounts have not yet been prepared and there is no clear-cut division of the transactions between the electrified schemes and the steam-driven part of the undertaking. Feeling that it is important that some comparison of results with estimates should be made as soon as possible and should be included in the report even if only approximate accuracy is attained, the Director has made his own assumptions in regard to the allocation of receipts and expenditure between the two systems and has put them forward for consideration by the Committee and the Railway Department with a view to arriving at some conclusion regarding the best method of apportionment of the figures. We have not had the time to examine the bases of the various assumptions which could be satisfactorily settled only after thorough discussion between the Railway Department and the Auditor General. The real value of the enquiry is to enable a comparison to be made of the present cost of working of the electrified system with what it would have cost in a normal year if there had been no electrification and steam had been employed, and the real question is whether the assumptions to be made are sufficiently accurate and are not too numerous to make any comparison of practical value. Having made this clear, we have left it to the Railway Department and the Director of Railway Audit to discuss the bases of the various assumptions and to furnish to the Committee a joint note next year as to the possibility of reaching some general agreement regarding the methods of calculation and the desirability of pursuing further the line of enquiry adopted by the Director in his report on the accounts of 1930-31.

15. *Other outstanding recommendations.*—We have considered the explanations furnished and the action taken in regard to the various outstanding recommendations from previous years and enclose as Annexure to our report a statement showing the items whose final disposal has to be watched through the quarterly list of outstandings prepared by the Finance Department of the Government of India.

Comments on matters arising out of the accounts for 1930-31.

16. *Certain handicaps in the existing system in regard to control of expenditure.*—

(a) *Form of Demands and Expenditure Abstracts.*—Our examination of the accounts has revealed certain serious defects in the existing system of railway accounts which make it difficult for the administrative authorities to keep the expenditure within the scope and limit of the individual demands voted by the Legislature. The classification of expenditure represented by the Demands for Grants does not follow the classification of expenditure in the initial working accounts, on which current control by the administrative and executive authorities is presumably based. The difficulties inherent in the present system are lucidly set forth in paragraph 23 of the Director's Report and Mr. Badenoch has suggested that probably the ideal arrangement would be to frame a separate grant for working expenses for each railway. We have examined this question very carefully and we do not recommend any alteration in the structure of the main demands for grants against which

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the Controller of Railway Accounts conducts at present his appropriation audit for all railways taken together, as in our view this arrangement is suitable for purposes of discussion in the Legislative Assembly. We, however, entirely agree with the Director of Railway Audit that it is imperatively necessary that the arrangement of the working accounts and the sub-divisions of the Demands should correspond so that administrative and executive authorities may have no difficulty in carrying out the wishes of the legislature. Having laid down the principle, we leave the details to be worked out in mutual consultation by the Railway Department and the audit authorities and reported to the Committee in due course.

17. (b) *Separate demands for strategic lines.*—Another difficulty which has been referred to by the Director of Railway Audit relates to the presentation of two separate demands for revenue expenditure for strategic railways and for the Railway system of which they form part. Expenditure on the whole system is booked in one set of accounts and only a small portion of it is capable of direct allocation to strategic lines. The rest of the expenditure is distributed between strategic railways and the main system according to certain formulae. We were informed that the major part of the control of expenditure on strategic railways could only be exercised through the general measures of control over the main system and that the expenditure against the existing separate demand for strategic railways is not really controllable. It is admitted that, as under the present convention the loss on strategic railways is chargeable to general revenues, there should be a separate account prepared of the transactions of these railways. We think the legislature will be satisfied if this information about the working results of strategic lines is given in a separate appendix to the Demands for Grants and, subject to this being done, we recommend that the separate demand for grant for strategic lines be done away with.

18. (c) *Control of capital expenditure on open line works and expenditure from depreciation fund.*—The Director of Railway Audit has also suggested that it would be more satisfactory from all points of view if the two Grants, Nos. 8 and 10, relating to capital expenditure on open line works and expenditure from the depreciation fund, respectively, were combined in one grant. In the words of the Financial Commissioner of Railways "the present division is utterly futile for the purpose of control of expenditure, for once a work is started it is only the total amount of expenditure that can be controlled; it is not possible to control the depreciation fund expenditure separately because the total amount chargeable to the fund is a fixed amount and not subject to any control by any authority whatsoever, being the original cost of the work; nor can the expenditure in a particular year be controlled because while the total expenditure is susceptible of increase or reduction by a variation in the rate of progress of the work, the distribution of this expenditure between capital and depreciation fund cannot: it is fixed according to the allocation in the estimate. Finally, while the works programme shown in the Pink Books shows the distribution between capital and depreciation fund under each item of work, the total expenditure under Demand No. 10 is distributed under the various sub-heads corresponding to Demand No. 9—Appropriation to the Depreciation Fund, that is, the various classes of railway assets. One result of having separate grants for expenditure from capital and expenditure from the Depreciation Fund is that in many railways it has often happened that necessary adjustments between capital and Depreciation Fund have been postponed, because the administration fear that the grant under depreciation may be exceeded if the necessary adjustment

was made. For the purpose of control of expenditure, the total expenditure on the work is even now the main criterion, but the two demands have been kept separate because of the different sources from which funds are provided." We agree entirely with this criticism and recommend that the two Demands be combined into one with effect from next year.

19. We do not think that it will be possible to give effect to the recommendations in paragraphs 16 and 17 in the accounts and estimates of next year. We have therefore suggested that we should be supplied next year with skeleton forms of Demands for Grants, Appropriation Accounts and Working accounts prepared on the basis of our proposals and that we should be given a final opportunity of expressing our views on those forms before they are actually introduced in 1934-35.

20. *Further simplification of the form of the appropriation accounts.*—We have also considered in this connection certain suggestions made by the Financial Commissioner for simplifying the present form of his Appropriation Accounts. Taking the accounts of 1930-31, they begin with a synopsis of the causes of variations in regard to each sub-head and continue to explain in separate addenda to the appropriation accounts the details in regard to individual railways. These addenda cover considerably more than half of the publication and are reported to have involved a considerable amount of labour. The Financial Commissioner has proposed that in future each railway administration should prepare its own appropriation accounts which would be placed before the Public Accounts Committee as addenda to the main Appropriation Accounts and that the compilation of the Financial Commissioner of Railways would only furnish the summary explanations for all railways taken together under the respective sub-heads. As pointed out by the Auditor General, the pink books of Demands presented to the Assembly have no counterpart in the appropriation accounts and the suggested arrangement, while conforming to orthodox doctrine on the subject, should prove economical as regards labour and probably cost. We have, therefore, no hesitation in accepting these proposals, especially as they mean no reduction in the information given to the Assembly.

21. *Efficiency of internal check conducted by the Railway Accounts Department.*—Subject to our comments below, we agree with the Director of Railway Audit that the work of the internal check authorities has been generally satisfactory. The fact that numerous irregularities are brought to notice year by year in the Director's report does not necessarily indicate weakness in internal check but rather illustrates its vigilance.

22. *Chief accounts officers and their use as financial advisers.*—The Director of Railway Audit has observed that there is room for improvement in the relations between the accounts and executive authorities and although we were assured that this was the main objective of the scheme of a separated accounts department on railways and that this objective was being gradually attained, we found both in regard to control of expenditure and the various cases of frauds and irregularities noticed in the Director's report that sufficient use had not been made of the chief accounts officer as the principal financial adviser of the railway administration, and that this lack of complete liaison between accounts and executive offices was particularly felt in connection with relaxations of agreements with contractors which were permitted by engineering officers. We are glad to note that the Railway Department has issued instructions to all railway administrations emphasising the necessity for close co-operation between accounts and executive officers and of scrutinising most carefully in consultation with the financial adviser of the administration, viz.,

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the Chief Accounts Officer, all payments to contractors not admissible on a strict interpretation of the terms of the contract.

23. *Inspections of railway offices by the accounts department.*—According to the Report of the Director of Railway Audit several account offices found it difficult during the year to work up to their programme of inspections. We were informed that this was due to lack of requisite staff but that a combined effort was being made as an interim arrangement during the current year by the accounts and audit offices to cover the ground as far as funds permitted. We think that it is highly desirable that arrangements should be made for the inspection of all railway offices by the officers of the accounts department at reasonable intervals. The advantages of periodical inspection, particularly an occasional surprise inspection, have been impressed by the Railway Department on both accounts and administrative offices.

24. *Maintenance of capital and revenue accounts of buildings on railways.*—One important defect noticed by the Director of Railway Audit in his Report relates to the want of reliable and complete capital and revenue accounts of residential buildings and the difficulty in their absence of railway administrations giving effect to the declared policy of Government in regard to the provision of quarters on State Railways. We were informed by the Financial Commissioner that instructions have already been issued (in March 1931) that except on two Railways, the Burma and the Great Indian Peninsula Railways, capital and revenue accounts of residential buildings should be prepared and maintained by classes of buildings (*viz.*, those in which rents are pooled) with effect from 1931-32. The Burma and the Great Indian Peninsula Railways had been permitted to postpone the introduction of these accounts for one year. As regards the East Indian Railway where the state of the registers was reported to be very unsatisfactory, we understand that the position has since considerably improved and that the preparation of the rent schedules has been completed and that these schedules are being checked by the Chief Accounts Officer.

25. *Contracts—(a) Call for tenders.*—We are grateful to the Director for bringing to our notice the fact that there is a most marked divergency between railways in regard to calls for tenders before works are given out on contract and that the system is practically non-existent on several important railways. The fundamental principles in regard to this matter were enunciated by the Government of India in the Finance Department as long ago as August 1929 in a Resolution issued in pursuance of certain recommendations made by the Public Accounts Committee. Copies of this Resolution were endorsed to the Railway administrations by the Railway Board in September 1929 and detailed instructions on the subject were promised at the same time. We understand that these instructions are now ready for issue and in fact we were given by the Financial Commissioner an opportunity of looking into and criticising the draft rule dealing with the system of calling for tenders. We recommend that the general rule should provide that tenders shall be called for in all cases where works are given out on contract except where, for reasons which shall be recorded and communicated to the Chief Accounts Officer, the Agent decides that it is not practicable or advantageous to call for a tender.

26. *(b) Relaxation of agreements.*—A number of cases of such relaxation have been brought to our notice by the Director of Railway Audit. We must confess that we do not see eye to eye with the railway administration in regard to the equity of certain payments mentioned in the Report and made outside the terms of the original contracts. For example, the higher payment in one

case has been sought to be justified on the ground that the contractor who accepted the original rate in the contract had had no previous experience of the work, that the higher payment had been claimed immediately after the commencement of the work when the difficulties were realised and that even the higher rate, according to the Chief Engineer of the particular railway, would not have left to the contractor any margin of profit. We do not think that the railway is concerned with the profit or loss to the contractor who should be left to take the risks as well as the expected profits. In our opinion departures from the strict letter of the agreement could normally be justified only in those instances where, for example, strict insistence on the terms of the contract would lead to the contractor resiling from his contract and the result would involve large expenditure to Government in the long run. Each case would require expert financial advice. We are glad to note that definite instructions have now been issued that the higher administrative authorities on each railway should judge impartially each case of departure from the original terms of the contract and not agree to any proposal to vary the terms of a contract resulting in additional expenditure without consulting the Chief Accounts Officer of the railway as their financial adviser.

27. *(c) Proper form of contract.*—A fruitful source of overpayment is the absence of written agreements for contracts, both originally and in regard to subsequent modifications. Verbal contracts are still common in spite of numerous instances of nugatory expenditure to Government entailed thereby and brought to notice in the report of the Director of Railway Audit from year to year. We note that the Railway department have now issued strict instructions emphasising the necessity—

- (i) of settling, before a work actually let out on contract is commenced, the terms on which it is let, and of expressing these in the form of a contract drawn up where necessary on legal advice; and
- (ii) if and when necessity arises to modify such terms, of reducing these modifications to writing in proper form.

28. *Over-capitalisation on railways.*—The Director of Railway Audit has touched on some aspects of over-capitalisation on railways in paragraphs 208 to 213 of his Report and has made a few suggestions for counteracting this tendency, the feasibility of which the Financial Commissioner has undertaken to examine. The Auditor General has drawn our particular attention to the very wide questions of general principle raised in the following sentence in paragraph 213 of the Director's Report:—

“ the growth of railway capital under a system by which all differences between replacement cost and original cost and all betterments are charged to capital, while the increasing total of the capital account is not checked through any scheme of amortisation, would seem to render advisable an early re-examination of the separation convention.”

He has added that it is a matter of immediate importance that Government should take steps to reach a decision about the rules which should govern in the future the allocation between revenue and capital, expenditure on renewals and betterments, amortisation of railway debt, and so forth. We agree with the Auditor General that an early settlement of the permanent basis on which Works expenditure should be charged to Capital, to the Depreciation Fund and to Revenue is desirable; for it seems to us that, whatever

[Sir Alan Parsons.]
the future arrangements for the administration of Railways may be, the question will have to be settled before the financial effect of the new arrangements can be ascertained. We recommend, therefore, that it should be taken up immediately.

29. *Regularisation of expenditure on a 'new service'.*—Before we conclude we should refer to an important question relating to the regularisation of expenditure on "a new service", classified as 'new service' by the Public Accounts Committee *ex post facto* long after the expenditure had been actually incurred. The procedure that was originally proposed to be adopted by Government is explained in the orders quoted below *in extenso*:

"During the currency of the year, expenditure upon a new service not contemplated in the budget of that year, has to be covered by a specific vote from the Legislative Assembly. This vote has to be for the full amount of the expenditure if no savings exist to meet it, *vide* rule 50 (1) (ii) of the Indian Legislative Rules. When funds to meet the expenditure can be made available by re-appropriation, a demand for the grant of a token sum only may be submitted to the vote of the Assembly under proviso to the same rule.

"After the close of the year, rule 49 of the Indian Legislative Rules provides for the presentation of demands for excess grants. This rule is expressed to apply 'when money has been spent on any service,.....in excess of the amount granted for that service'. These words clearly postulate that some amount has been granted for the service on which excess expenditure is incurred and consequently have the effect of excluding the case of expenditure on a new service from the operation of that rule. It is clear, however, on a comparison of rule 49 with sub-rule (1) of rule 50, that the omission to provide in rule 49 for the case of expenditure on a new service is in the nature of a lacuna. As it is not considered worth while to propound an amendment of the rule at this juncture, it has been decided to treat rule 49 as applicable in the case of expenditure on a new service and to apply the rule in such cases as though it contained a proviso corresponding with the proviso to sub-rule (1) of rule 50 of the Indian Legislative Rules."

At our instance the proper procedure to be followed in such cases was discussed by our Chairman with the Hon'ble the President of the Legislative Assembly. We agree with their conclusion that under the Government of India Act the action must be regularised by obtaining the formal approval of the Legislative Assembly to the whole expenditure and that in future, if there be any case of new service in the appropriation accounts of a year, the usual form of the Resolution for taking the report of the Public Accounts Committee into consideration should be expanded so as to include "and that the Assembly do approve the expenditure of Rs.....on.....".

30. We append to our report minutes of the proceedings which we consider should be considered as part of the report. We assume that in accordance with the established practice action will be taken by the Department as necessary on the observations and recommendations contained in those paragraphs.

31. We wish to express our appreciation of the valuable services rendered to us by our Secretary, Mr. Aravamudha Ayangar, both during our sittings and particularly in the preparation of the minutes of our proceedings and of this Report.

A. A. L. PARSONS.

B. DAS.

ABDUL MATIN CHAUDHURY.

M. A. AZIM.

M. C. RAJAH.

ISMAIL ALIKHAN.

S. C. MITRA.

MOHAMMAD YAKUB.

J. RAMSAY SCOTT.

R. D. DALAL.

V. K. ARAVAMUDHA AYANGAR,

(Secretary.)

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LEGISLATIVE ASSEMBLY. [15TH NOVEMBER 1932.]

[Sir Alan Parsons.]

32. The non-official members of the Committee desire to record their appreciation of the ability, energy and tact with which the Chairman conducted its deliberations. His wide and intimate knowledge of different branches of financial administration has been of valuable assistance in expediting the work of the Committee.

B. DAS.

ABDUL MATIN CHAUDHURY.

M. A. AZIM.

M. C. RAJAH.

ISMAIEL ALIKHAN.

S. C. MITRA.

MOHAMMAD YAKUB.

J. RAMSAY SCOTT.

R. D. DALAL.

Dated the 15th November, 1932.

ANNEXURE.

(Referred to in paragraph 15 of the Report.)

(A) *Recommendations outstanding from previous years.*

(1) Issue of rules regulating the custody and relinquishment of railway lands and buildings (Item 77 of Appendix I).

(2) Continuance of the special rates and concessions for Military traffic obtained by the Military Department from the Railways (Item 80, *ibid*).

(B) *Our Recommendations in the current Report.*

(1) Submission of a statement of the actual action taken on the proposals for retrenchment made by Mr. Badenoch in his report dated 26th April 1932 [Paragraph 13 (iii) of the Report].

(2) Submission of a joint note by the Railway Board and the Director of Railway Audit as to the possibility of reaching some general agreement regarding the methods of calculation and the desirability of pursuing further the line of enquiry regarding the financial results of Railway electrification schemes adopted by the Director in his Report on the accounts of 1930-31 (Paragraph 14, *ibid*).

(3) Report of the detailed action taken in pursuance of the principle laid down by the Committee regarding correspondence between the arrangement of the working accounts abstracts and the sub-divisions of the Demands (Paragraph 16, *ibid*).

(4) Supply to the Committee of skeleton forms of Demands for Grants, Appropriation Accounts and Working accounts prepared on the basis of Committee's proposals (Paragraph 19, *ibid*).

(5) Settlement of the question of the permanent basis on which Works expenditure should be charged to Capital, to the Depreciation Fund and to Revenue (Paragraph 28, *ibid*).

(6) Supply of certain information regarding railway advertisements given to newspapers (Paragraph 3, Proceedings).

(7) Necessity of laying down some procedure as soon as possible calculated to obviate the present delays in the apportionment of joint station expenses between railways (Paragraph 46, Proceedings).

(8) Submission of a report on the extent to which it is found feasible to adopt the various suggestions of the Director of Railway Audit made in paragraph 28 of his Appropriation Report for 1930-31 with a view to expediting the submission of monthly accounts (Paragraph 63, Proceedings).

THE CRIMINAL LAW AMENDMENT BILL.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Further consideration of the motion that the Bill to supplement the Criminal Law, as reported by the Select Committee, be taken into consideration, and the amendments moved thereon.

Diwan Bahadur T. Rangachariar (South Arcot *cum* Chingleput; Non-Muhammadan Rural): Sir, I have given the subject of this Bill my most anxious consideration, and I may say at once that I fully appreciate the point of view of the Honourable the Home Member in putting forward this Bill for the acceptance of this House.

This is the first time that this House is called upon to endorse the principles underlying a Bill of this sort. It is, therefore, up to us to examine the principles with care and anxiety before we commit ourselves to the Bill, because the declared object of this Bill is to suppress the civil disobedience started by the Congress.

So far as I recollect, the civil disobedience began with the Congress on account of the introduction of the reforms under which we are now working. Diarchy was condemned by them and they refused to have anything to do with it; that is how the non-co-operation movement began, and following that, civil disobedience came in its wake.

We must take care that we do not commit the same blunders—when I say “we”, I am also speaking on behalf of the Government; I consider myself a part of the Government in this country—we must take care that we do not commit the same blunders as we did in forcing down the throats of the people the diarchical system. Now, Sir, nobody comes forward to support the diarchical system of Government, and they all recognise that it was a great blunder which was made. They are, therefore, busy making a new form of Government, and I hope it will be satisfactory to the people. At a time like this, we have to examine the situation carefully. When you are going to introduce, I hope, a popular form of Government which will be liked by the people and which will be worked by the people, it is up to us not to irritate the people. You must create an atmosphere, if it is not impossible, in order that they may be in a position to receive the reforms heartily and work them willingly.

This measure, which is before the House, is bound to produce irritation in the minds of the people. Unless, therefore, a case of absolute necessity is made out, I do not think that this House will be justified in sanctioning such a measure. It will be unwise from many points of view to do that. Undoubtedly the Ordinances were enacted by His Excellency at a time when there was emergency. I think it is admitted on the part of Government that the movement has been brought under control, if not extinguished already. I think the Government may well congratulate themselves on the results achieved so far. What they have to satisfy us about now is, whether the same necessity exists now for this measure as existed in the beginning of this year. I think the Government are not advancing any such argument in support of this measure. They consider it will be wise precaution to keep this weapon in their hands in case the civil disobedience movement shows signs of revival or rather intensive activity in the future. It all depends upon what form of Government we are going to get. If the form of Government is going to be satisfactory to the people and we want the co-operation of the people very much, it is far

better not to have this weapon in our hands and threaten them by saying “Either you like the reforms we are going to give you, or we have this weapon to suppress you”. That is how I read the object of this measure. That ought not to be the attitude of a wise Government. You cannot continue to govern the people against their will. You may do so for a time. You cannot be guarding your houses with police constables in front and behind as Honourable Members opposite are obliged to do. You cannot shut the public roads in order to enable His Excellency the Viceroy to move about freely. That is an unhappy state of things which we must do everything in our power to remove. His Excellency is obliged to travel by air in order to avoid the expense of having police guards every half a furlong. Why should that be so? Is statesmanship wanting? How long are you going to continue this state of affairs? That is the question I ask the Government to put themselves. I do not deny there is some justification for some, at any rate, of the provisions contained in this Bill. Justification is one thing, but the necessity for the same is quite different. There is, on the part of Government, unfortunately, a growing distrust or rather irreverence for the rule of the law. We are brought up in the rule of the law, and what does it indicate—security of person and property, equality in the eyes of the law of all persons and resort to ordinary laws and ordinary procedure. All that is sought to be done away with by this measure now before the House. You want Special Magistrates, special procedure without liability to account for excesses on their part. That is the sort of weapon which the Government want to arm themselves with. I have heard a good deal about oriental despotism and continental methods of administration, but we want British institutions, not continental administration or oriental despotism. The measure now before the House smells of both. They have borrowed their weapon from the continent. They have imbibed their spirit from oriental despotism from their association with the East. What is it that they are doing now? You are demoralising yourself, you are demoralising the people, and you are demoralising your officers. A thirst is being created for extraordinary arbitrary power. It is just like drink evil or any other thing which you may indulge in. Once the taste is created, it is difficult to eradicate that. It is far better that we do not begin to indulge in such things. Has the ordinary law been honestly tried? The terrorist movement is quite a different thing. I have heard some Honourable Members refer to the terrorist movement in this connection. That is dealt with separately. This Bill does not touch it. There is another fact which we have to remember. So far as direct action is concerned, I find the Local Governments are taking steps to arm themselves with special measures to deal with local conditions. I see that has been done in various provinces, in Bengal, in Bombay, in the United Provinces, and also in the Punjab and the Frontier also, I am told. Local evils, such as they are, are being combated by measures which are passed in the local Councils. Here we are asked to clothe the Central Government and other Local Governments with reserve powers.

There are certain provisions to which one need not take exception, for instance, the attempt to dissuade the people from entering the military or the police service. My only objection to it is that it is unnecessary and uncalled for. I do not think the evil is so great, but, however, Government may be in possession of facts; but the other clauses of the Bill are pernicious, vicious in principle, they are mischievous enactments.

[Diwan Bahadur T. Rangachariar.]

the property that it is not liable to seizure,—how is the man concerned to show that? A committee is declared an unlawful association behind the back of the people, by a Government, a Member sitting in his chambers acting on the report of the District Magistrate, who again acts on the report of the District Superintendent of Police and who again acts on the report of the Deputy Superintendent or the Inspector of Police for the time being. What is the safeguard? Won't you call it robbery if I or you did unfortunately take hold of other people's property without a trial? Is that the sort of security that we are going to enjoy? It is said, the duration of the Bill will be only for three years. Sir, I would not tolerate such a situation for three minutes. Sir, I am so anxious to secure the credit of this country. Sir, we have enjoyed the liberties of the British citizen for so long, and we want to continue to enjoy them and not to have them endangered in the way in which this Bill tries to do. I do not think, Sir, that the situation in the country is so grave as to call for this measure at the present day, whatever may have been the state of things some time ago.

Sir, on these grounds I will ask the House to reject this measure. Let us get on with our ordinary laws. There is no danger in front of us and we are running no risk. We have survived the Congress and we will survive the Congress movement for many a year to come. Let us get into the smooth and peaceful atmosphere. Let us try to win over the co-operation of the people. How are you going to get the co-operation of the people if you irritate them by passing measures of this sort? You will not get it. On the other hand, you will alienate them more and more. That aspect of the question, Sir, I hope, will appeal to the Treasury Benches. They will consider twice, thrice, nay ten times, before they ask this House to accept this measure. Such a measure and such a weapon should not be used. If you once have it in your hands, the temptation will be so great that it will be difficult to resist the resort to it. It is not the six Honourable Members who sit here who will have the control of these things. It is the local deputies; the Deputy Superintendents of Police and the Inspectors of Police who will be in charge of these things. I can appeal to the experience of my Honourable friends, especially the Indian Members in the Executive Council, how these things can be used, abused and ill-used. Excesses, Sir, in the name of law have been many indeed. Will you be surprised to hear, Sir, when I say that the first intimation I had of my having to take part in a meeting was by a notice served on me by the Commissioner of Police, Madras? Myself and Sir C. P. Ramaswami Aiyar, who had just then retired from the Home Membership of the Government of Madras, were in our chambers doing our work quietly and we were told that we were going to take part in a meeting that evening of which we had not the remotest inclination. Sir, that is the way the police work. There is no wonder if people distrust them. Let us do our little bit. I do not mean to say that the Government are not anxious about this measure. They are naturally anxious to help the people, but that is not the way to help them. Sometimes remedies are far worse than the diseases themselves. They want to cure. As I said, just a few minutes ago, you are demoralising yourself and also demoralising your officers who are now guided in their administration of justice by the Criminal Procedure Code. You want them to ignore the provisions of the Criminal Procedure Code. They forget that they are

under the rule of the law. They have now begun to think that they are above the law. That is the spirit which you are engendering in the minds of your executive officers. All this is a source of danger; the risk is too great; the result will be too small. So, considering the matter from every point of view, I will press upon this House, especially the elected Members, not to vote for this Bill. I will press upon the European Group, especially my Honourable friend, Mr. James, who, I know, can go as safely in the heart of the black town as any Indian brethren, not to vote for this Bill. We have often gone together in the streets of Madras without any fear. It all depends upon the situation we create and upon the atmosphere we create. Let Mr. James and his colleagues in the European Group speak as he did on the Nilgiris, only, I think, two weeks ago.

Mr. F. E. James (Madras: European): May I remind my Honourable friend that I was stoned by the civil disobedience mob in 1930?

Diwan Bahadur T. Rangachariar: Then perhaps you were not the same Mr. James as you are now. That is how I read it. You were then new from Calcutta and they misunderstood you. Now, Sir, I do want to impress this aspect upon the House. This Bill is uncalled for, unnecessary and untimely and I consider it most inopportune just on the eve when you are sending people at a great expense to the Third Session of the Round Table Conference. What is it that they are going to bring and for whom they are bringing it? Is it for the police or is it for the District Magistrates or is it for the people of the country? Do the people of the country count at all or not in your eyes? Are you going to govern them with their sanction, will and co-operation, or are you going to govern them with the will of the police and the Military? That is the direct question I put to the Government. Sir, I consider this measure as vicious, uncalled for and untimely and I would beg of the House to reject it altogether and not resort to the dilatory motion of circulation or a Select Committee. (Applause from Non-Official Benches.)

Sir Leslie Hudson (Bombay: European): Sir, I rise to oppose both the amendments which have been moved and so eloquently supported by my Honourable friends to my right. It seemed to me, Sir, that the course of the discussion wandered somewhat from the particular essence of the amendments, namely, firstly, that the Bill should be circulated for opinion and, secondly, that it be sent back to the Select Committee for further consideration. The debate wandered sufficiently for my friend, Mr. B. Das, to deliver most of the speech which he had evidently prepared for the short notice question which he was unable to deliver a day or two ago.

Mr. O. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): The Honourable Member ought to know that he was speaking on the main motion.

Sir Leslie Hudson: And other Honourable Members drifted, if I may be allowed to say so, some little distance from the wording of the amendments.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order. The Chair does not wish to interrupt the Honourable Member when he is making his maiden speech; but the Chair would like to point

[Mr. President.]

out that the discussion which was now proceeding was not only on the amendments, but also on the original motion and the whole subject was before the House.

Sir Leslie Hudson I beg your pardon, Sir. Now, Sir, the Mover of the first amendment and several of those who followed him stated with great emphasis that by the Ordinances, only a few of which are embodied in this Bill, Government were terrorising and punishing ignorant people. That is not the fact as Honourable Members are fully aware. The Honourable the Diwan Bahadur has said that Congress are not behind terrorism; the Congress do not stand for murder and violence. The Honourable the Diwan Bahadur must have read the Congress bulletins which have been showered over the land full of incitement to bloodshed, to murder, full of vilifications of the British Government, the British people and not only them, but those innocent people of this land who are crushed under the yoke of the Congress and are afraid to raise their voices. No innocent law-abiding person has any reason to fear the effect of these Ordinances or of this Bill. It is only those misguided folk who have suffered themselves to be carried away by the specious and lying utterances of the Congress, that party which has declared war on the Government of this country and which has preached defiance of its laws in its advocacy of civil disobedience. Well, Sir, war entails the use of weapons by both sides and, against the weapons of disorder and anarchy, it is surely the duty of the other side to arm itself with such weapons of offence as shall secure some measure at least of victory and which shall allow the law-abiding folk the liberties they are entitled to. One of the measures in any kind of warfare is to dispossess the enemy, so far as may be possible, of the sinews of war.

I cannot see that any person or the Editor of any newspaper, who may be guilty of action liable to bring the Government of this country into contempt, can complain when Government take the necessary powers to enable them to make a counter-attack. We have heard, Sir, vehement oratory in defence of boycotting and picketing, both weapons, it has been admitted on the floor of the House, initiated by that party which has declared war on the Government of India. The Congress, I maintain, are equally behind boycotting, picketing and terrorism, and Government are right in taking powers to combat those methods of coercion. My Honourable friend, Mr. Das, raised before the House a picture of so-called patriotic young men and women who have taken part in these acts of coercion and violence. He did not mention the fact that most of the casualties in this campaign have been young persons paid by the Congress party to commit acts which have inevitably led to bloodshed and imprisonment.

The Honourable the Mover of the first amendment and others made the statement that Government, by this legislation, were forcing a measure on the Federal Assembly that is to be, which that body would be unable to repeal owing to the fact that, firstly, the Federal Council of State would be sitting in revision over the new Assembly and would throw out any such repeal, and, secondly, that, so he assumed, the Governor General would exercise his veto. I would suggest that the Honourable Member applies himself to the study of the reports of the two Round Table Conferences which should correct his pessimism in this regard.

Another point made by several Members has been that Government should relinquish the weapon they have in this, so-called, repressive legislation and should settle the war by conciliation. Sir, conciliation has already been tried, and with what effect? In the Presidency of Bombay, it has proved only an incentive to further encroachment by the Congress on the liberties of the subject with a result to the trade of the City from which I come which he who runs may read.

My Honourable friend, Mr. Ranga Iyer, who, as one of my friends said yesterday, had evidently modelled his trenchant oratory on that of Mr. Winston Churchill, or was it that of the late Lord Birkenhead, Mr. Ranga Iyer in the course of his speech stated that he stood for an attitude of goodwill. That most excellent standpoint was, however, somewhat stultified by his statement a little later that the vernacular press of this country was debarred, by the terms of the Bill, from the right which he claimed for it, of stirring up the people. Sir, this stirring up of the people by false rumours and glaring misrepresentation is one of the chief weapons which the Congress Party use to prevent the carrying out by the Government of that law and order which is necessary for the preservation of the lives and liberties of His Majesty's subjects from the highest to the lowest. And the latter, the illiterate and largely non-vocal tillers of the soil and the backbone of the country, are, it will be admitted, the chief objects for the present Government's concern.

Sir, the object of this Bill is to strengthen the ordinary law so as to prevent activities in support of subversive movements which do not come within the letter of the existing Criminal Law. It has been said in this House, on a previous occasion, that the civil disobedience movement in its main activities is the result of a lawyer's study of the defects in the existing law. This Bill goes a certain way, I am not prepared to say all the way, to stop loopholes in the present law of the land. In my opinion, its provisions are not so much repressive as deterrent and are a warning to the misguided section of the public, misguided by the Congress into breaking the law, of what will happen if they persist in endeavouring to make the carrying out of law and order impossible. The history of the vernacular press in the last 25 or 30 years is well known to you, Sir, and to this House and I will not burden you with repetition. I do not propose to give instances, of which there are legion, of objectionable writings by which it has been the object of the Congress to spread disaffection. I will merely say that the existing law is inadequate to deal with the consequences of the decadence of the tone of that press which has come about since the repeal of the Press Act.

One of the worst forms of spreading disaffection—a term which has been described by a well-known Chief Justice as “a feeling contrary to affection, in other words, dislike or hatred”—has been the dissemination by the Congress of false rumours with the object of undermining the loyalty of the army. Soldiers, who are, in the main, simple folk, have been unable to understand the immunity enjoyed by agitators who spent their time preaching against the Government, and by the press whose columns were filled with misrepresentation and false statements calculated to undermine the loyalty of the troops.

Sir, I see no reason for the circulation of the Bill, for its terms are well-known throughout the land and so are the reasons and the necessity of bringing these powers on the Statute-book. My Honourable friend,

[Sir Leslie Hudson.]

Mr. Lalchand Navalrai, has stated, with approval be it noted, that the amendments are merely dilatory motions intended by my Honourable friends opposite to inconvenience the Government as far as possible.

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): I did not admit that.

Sir Leslie Hudson: I think the Honourable Member stated so.

Mr. Lalchand Navalrai: I only said they were dilatory; I did not say they were meant to inconvenience the Government.

Sir Leslie Hudson: The Honourable the Home Member has already pointed out to the House that objections raised in the Select Committee were given full scope for discussion and these were met by sweet reasonableness by Government, as can be seen by the Bill as it now appears before the House. With regard to the Select Committee, further than to say that I fully support the declaration made yesterday by the Leader of the House, I will not refer to the unfortunate incident which occurred in that Committee. As regards the amendment of the Honourable Member, Mr. Thampan, I think my Honourable friend, Mr. Sen, has dealt with that quite effectually and I hope that the House will throw out both these delaying amendments without further waste of the time of the House. (Applause.)

Mr. Muhammad Yamin Khan (Agra Division: Muhammadan Rural): Before I go on to deal with the amendments or the main motion which is before the House, I should like to give the House certain facts about which a great deal of misapprehension has been created in the minds of Honourable Members by the Note of Dissent which has been appended to the Report of the Select Committee. I do not want to go into the details of the proceedings of the Select Committee

An Honourable Member: Why not?

Mr. Muhammad Yamin Khan: But as regards one incident which refers to me personally, I wish to make a personal explanation. I think it was not fair and proper on the part of some Honourable Members to have said something of the nature of half-truths. If they wanted to say anything at all, they ought to have told the whole truth and nothing but the truth.

Mr. A. Hoon (Allahabad and Jhansi Divisions: Non-Muhammadan Rural): On a point of order, Sir. Is it or is it not a fact that you were pleased to rule yesterday that whatever transpired in the Select Committee should not be discussed on the floor of this House.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): That is the convention and it has to be respected by the House. But as so much has

already been said in regard to what happened in the Select Committee, the Chair desires to take this opportunity of explaining what the position of the Select Committee is. The procedure laid down in regard to legislation requires that the Bill should come to the House in the first instance. If the House agrees to the principle embodied in the Bill, they may refer it to a Select Committee for the purpose of saving the time of the House and facilitating consideration at a later stage. The Select Committee tries to reconcile the differences of opinion which may have prevailed at the time the Bill was under consideration of the House at the initial stage, and help to expedite public business. But it is only a reporting committee to assist the House in dealing with legislation. The supreme authority in regard to all these matters is the House itself, and if any differences of opinion remain unadjusted in Select Committee, Honourable Members can make minutes of dissent and appeal to the House for final adjudication. If these points are borne in mind, that differences of opinion in the Select Committee are not material so far as the passage of legislation is concerned, that the supreme authority in all such cases is the House itself, and that the House, when appealed to, will give careful consideration to every thing which may be brought to its notice before giving its final decision, much of the feeling that seems to exist and much of the discussion which has taken place can be avoided.

Mr. Muhammad Yamin Khan: Sir, I saw the secrets of the Select Committee as they appeared in the press from time to time with great regret, and it was pointed out even in the Select Committee that anything that took place in the Committee should never get out, because it was a confidence reposed in the members which should be respected. But, unfortunately, that trust was betrayed and, somehow or other, certain proceedings of that Committee were reported in the press. It should not have been done, specially because they were not full reports and all members would not have agreed to them. It was sheer propaganda of some members to get cheap popularity among the public. And the whole Committee agreed, at a certain stage, that no report should appear in the press, and if any report did appear, your protection would be sought against the paper which published these reports. As far as the press was concerned, I would have taken no notice of it, because it was a matter between the public and the whole House. But the House is possessed of a note of dissent which gives a totally different colour to the thing as to how the proceedings of the Committee were conducted and, it is only fair that the House should know the other side also. I will confine myself only to what concerns myself and leave aside the other incidents. On the 24th October, when the Committee met for the first time, I made a personal request that there should be no meetings on the afternoon of the 25th and 27th, because I had to go to Meerut to decide a communal question which vitally affected that city and which was left to my decision. Some members were of the opinion that there should be no afternoon meetings at all. This request of mine was accepted unanimously, and, on the 25th, there was no meeting in the afternoon. But there was an anxiety on the part of the Chairman of the Committee that the business should be finished within the time given by the House. On the 26th, I again requested that there should be no meeting on the afternoon of the 27th and a suggestion was made to me that as there

[Mr. Muhammad Yamin Khan:]
was a likelihood of a division on a particular clause which I was anxious to retain in the Bill and there was opposition from the other side

An Honourable Member: What do you mean by "other side"?

Mr. Muhammad Yamin Khan: I will explain to the walk-out Members if they will listen to me.

It was suggested to me that there was an Honourable Member who was anxious to go on account of a festival, and, as there was a different point of view, I made an offer that if he was willing not to vote on a particular clause on Thursday afternoon, I would not vote the whole day on Friday on which he wanted to be absent. When he was not willing, there was an Honourable Member who told me that he was willing to see that there was no voting on Thursday afternoon at all. When I came up on the 27th in the morning, that very Honourable Member, who had given me a guarantee that there would be no voting on the afternoon of the 27th, backed out and said that he thought I was referring to the next week, that is, November. That gentleman having backed out, I again made my request to the Chairman. I stuck to the request which I had made in the beginning and to which he had acceded. And the Chairman, in deference to that, as he had given—and it was also pointed out that other members of the Committee also wanted to go on some business, that was postponed; and it was not only conceded to me it was conceded to others also which the Honourable Members have not put it down that it was only in deference to Mr. S. C. Mitra's wish alone that he did not want to sit on Friday, while all other members were willing that the Committee did not sit on that day

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): I did not want any postponement. I did not expect any consideration for this.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Is it desirable to go in such minute detail into what happened in the Select Committee? The Honourable Member may, if he wishes to offer a personal explanation, make a brief reference to it; the Chair has listened to the Honourable Member on the subject for a considerable time and trusts that in view of the position explained by the Chair he will not be so elaborate.

Mr. Muhammad Yamin Khan: I only made this point, Sir, that whatever consideration was shown was not shown to particular members—it was shown to other members also; and to put it down that it was shown to any particular member, it is not fair and proper. Another point which has been made and which, I would like to show, is that it has been suggested that the Committee was so divided that there was a Government party and there was a non-Government party. I protest very strongly against the insinuations which have been made in this note; they are very malicious

An Honourable Member: You are protesting too much.

Mr. Muhammad Yamin Khan: and they should not have come from any member who wanted to be fair and who wanted to

Sir Hari Singh Gour (Central Provinces Hindi Divisions: Non-Muhammadan): I rise to a point of order. I have listened with very great patience to the very elaborate explanation which has fallen from the Honourable Member. If the Honourable Member persists, I think it will be your duty, Sir, to appoint a Committee of this House to inquire into the allegations made by my Honourable friend and traversed by the Honourable gentlemen on the opposite side, so that this House may be in possession of all the facts and in the meantime the business which we have got to do from day to day should be suspended.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Chair fails to see what the point of order is.

Sir Hari Singh Gour: The point of order is, if the Chair would allow a long and elaborate explanation on the part of Mr. Yamin Khan, would the Chair also allow an elaborate counter explanation on behalf of the gentlemen who wish to traverse any one of his statements?

Mr. S. C. Mitra: Certainly.

Sir Hari Singh Gour: In order to give the House all the facts, will you, Sir, appoint a Committee to go into the facts stated by one side and controverted by the other, so that that Committee may report as to which side is telling the truth and, in the meantime, the main business we have before this House be suspended?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member has still failed to satisfy the Chair that he has raised a point of order. The Honourable Member has made a suggestion which cannot be construed as a point of order. The Honourable Member is aware that when the Chair felt that the Honourable Member in possession of the House was a little too elaborate in his explanation, the Chair asked him not to go so elaborately into that aspect of the question. That was done only a couple of minutes before the Honourable Member thought fit to rise to the point of order. I have again to point out to the Honourable Member that it is desirable that the happenings of the Select Committee should not be dealt with so elaborately by any Honourable Member and that the motion and the amendments now before the House should now be discussed if he wishes to do so.

Mr. Muhammad Yamin Khan: Sir, one point which I wish to draw the attention of the House is this, that when it is suggested that this Bill be recommitted to Select Committee, it is a futile suggestion, because the Select Committee went through this very carefully and the Bill has been so much modified, according to the desire of the House, that there is no necessity of recommitting it to any other or the same Select Committee. It has not been so much modified that it should go back for circulation because the public opinion can be reflected here by the Honourable Members who are themselves the representatives of the

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public; and they are in full possession of the facts and of the criticisms which have been levelled against this Bill. This is obvious by the very report and by the very changes which have been made in the Bill and which any Member can see by one glance, that all this matter which has been printed in italics, these are the changes which have been made in the Select Committee. Now, what are these changes? The foremost and the greatest objection to the Bill, as it has been originally introduced, was this that it sought to make a permanent law and sought to put on the Statute-book. No lawyer Member of the House was willing that any modification of the Indian Penal Code and of the Criminal Procedure Code which is the permanent law of the country should be allowed in the shape of the Bill as it was introduced at Simla. Now a glance at the Bill will show that it has been modified very carefully, that these provisions of this Bill are going to be no longer a part of the Indian Penal Code or of the Criminal Procedure Code. That was the Government's desire; and there was another desire on the Opposition side that these provisions should not form part even of the temporary law. As is quite clear from one passage in the note of dissent of certain members, their point of view was—they say:

"It may also be noted here that since those words were uttered, there has been no such material change in the situation that the ordinary criminal law of the land has not been able to meet it."

Further on, they say:

"The civil disobedience movement is only a means to an end. The object is to attain self-government rapidly."

Now, there was a difference, a fundamental difference in the opinions and the guiding principles of the two sides of the House. One side thinking that there was no necessity of any future legislation to meet a situation as has been created in the country; and the Government thinking that there was a necessity to meet these circumstances in such a way that it was not only desirable to place on the Statute-book temporarily, but the permanent law should be changed in order to meet this situation whenever it arises in the future. If these two irreconcilable principles were present in the minds of Honourable Members and if no party had agreed to yield, then there would have been two reports here. But what do we find? A *via media* has been adopted. These provisions do not find a place in the Statute-book permanently, nor have they been left out altogether. It was clear from the debate at Simla that the House was willing to concede those powers to the Government to meet the abnormal situation, because it was admitted that abnormal powers were needed to meet an abnormal situation, and those powers have been retained only to meet the abnormal conditions, and as it was thought that these abnormal conditions would remain till the new reformed constitution came, it was considered necessary to fix this period of three years. There are certain Members in the House who think that even three years is a very short period and the situation is likely to remain unchanged for at least five years. On the other hand, there are others who think that one year or even six months would be more than enough, but it was decided that three years should be fixed. This is a very important amendment which has been

made by the Select Committee, and it has been made only in accordance with the views expressed by certain Members at Simla. One fact, however, cannot be denied, and it is this, that the House had adopted the principle of this measure by a huge majority, the like of which never happened before in the life of this Assembly,—the majority was 64 as opposed to 32. Now, when that was the wish of the House, it can never be ignored, and it has to be carried out; they accepted the principle of the Bill.

Then there are other important changes which have been made and to which the Honourable the Home Member has already alluded, and I need not allude to them again. A reduction has been made in the sentences, as suggested by some Members, there has been a material change in regard to imprisonment for non-payment of fine, payment of son's fine, and so on. Another important change is about the protection sought to be given to Indian princes, which has been taken out by the Select Committee. There are many other changes made in the Bill, and I do not propose to go into all of them.

Now, coming to the question whether there is any necessity or not for this measure or whether this Bill should be absolutely thrown out as has been suggested by my friend, Diwan Bahadur Rangachariar, unfortunately my friend was not present at Simla when the debate took place on this measure

Diwan Bahadur T. Rangachariar: I have read the whole of it.

Mr. Muhammad Yamin Khan: If he had been present, he would have been convinced about the necessity of this Bill. I do not know what are the circumstances that exist in the distant part of the country of Madras from which he comes here. It is far far away from the turmoil which is rampant in the North

Mr. B. V. Jadhav (Bombay Central Division: Non-Muhammadan Rural): It is the benighted Presidency.

Mr. Muhammad Yamin Khan: I do not know whether the Congress movement is so strong there. (*An Honourable Member:* "There is plenty of it there.") I do not know if the civil disobedience movement exists there in such great intensity as it exists in the north. I do not know if he is aware of the calamities that have been caused to thousands of people who have been murdered in Cawnpore. I do not know whether my friend is in touch with the incidents that took place in Bombay. I do not know whether he knew about the murders of zamindars that took place in Allahabad district as a result of the civil disobedience movement, and creation of class hatred, and also in the districts of Aligarh and other places. I do not know whether he is aware of all these incidents or whether he merely wants to shut his eyes to all these incidents—I am not sure about it,—but if my friend had lived in places, where these things are almost a daily occurrence, where the life of the people, who do not see eye to eye with the Congress people, is never safe, if my friend had lived in these parts, I am sure, he would have changed his views absolutely.

Mr. Gays Prasad Singh (Muzaffarpur cum Champaran Non-Muhammadan): Take him to that place.

Mr. Muhammad Yamin Khan: If he had come to these places where wordy quarrels lead to bloodshed, he would certainly have changed his views. He comes unfortunately from a country where it would take an immense effort to excite the people to come to blows. (Laughter.) Therefore, he cannot see or realise the gravity of the situation in these parts. There are places where murder is committed merely to acquire the name of a martyr, there are places in India where mere excitement leads not only to verbal quarrels but which mean ruin to thousands of families as happened in Cawnpore recently. My friend says that peaceful picketing and peaceful persuasion should not be prohibited. May I ask, whether it was peaceful picketing or peaceful persuasion at Cawnpore that led to the ruin of thousands of people, or was it violent non-co-operation?

Diwan Bahadur T. Rangachariar: Is there no law to prevent all that?

Mr. Muhammad Yamin Khan: If there is somebody to set fire to the house and nobody at hand to quench the fire, what can be done? What my friend wants to do is, he wants to set fire to another person's house and he says—has the Municipality not got a fire alarm or a fire brigade? Is that the position you take? You want to set fire to the House and you want to blame the Government, because they come a little late to extinguish the fire. Is that the position that my friend wants to take? He says, it was peaceful picketing and peaceful persuasion. For his information I might say that it was peaceful picketing and peaceful persuasion on account of Bhagat Singh day, on which day, as a protest, my friend walked out from this House that led to all this disaster in Cawnpore. It was the so-called peaceful picketing that led to all these calamities that so many have been killed in the streets of Bombay, and so many have been murdered from day to day.

Diwan Bahadur T. Rangachariar: Does my friend know what is meant by confusion of ideas?

Mr. Muhammad Yamin Khan: If my friend has any idea about conditions in the North, I am sure, he will realise the situation. No man, who has any regard for the good of his country or the progress of his country, can shut his eyes to all these happenings; these things are hardly creditable to any country, and they will never be a credit to India. These are the things which hamper the progress of this country. These are the things which are the real cause of bringing forward this Bill. My

1 P.M. Honourable friend said that he had a talk with the Congress leaders, and that he was blamed by them, because he could not persuade the Government to come to some agreement. The Honourable Member ought to have made this reply that it was their deeds, it was their behaviour in the country, that was making him not to have any voice in the Government, and it was they who were responsible for this Bill. This is a present given to them simply on account of those deeds. If they had left the people to follow their own ways, if they had not tried to impose their will on people who did not share their opinions, then there

would have been no necessity at all for such a measure as this, and there would be no support for such a Bill if the Government brought it forward in this House. (Cheers from Government Benches.) Government are getting support, because people are not left alone to have their own way. I ask, has picketing ever been peaceful? Can you show me any example where there has been peaceful picketing in this country? I have never heard of such a thing as peaceful picketing. Although it may have started as peaceful picketing, it never ended as peaceful picketing. I may be strong in my language, but I do not want to mince matters. I still hold that there can be no peaceful picketing, and if any kind of so-called peaceful picketing is allowed by Government, Government only will be blamed by thousands and thousands and millions and millions of people in this country. My Honourable friends may think in one way, but there are other people who may think in a different way. My Honourable friends may be advocates of one class of people, but there are people who differ from them. We may have advocates of different communities, different ideas, different classes of people, and they have got to see that they are left alone. If everybody is left alone, there will hardly be any gentleman who will get up and say that he wants to support this Bill. If my Honourable friend will take the message of this House to the President of the Congress that he should mend his ways and stop all this nonsense, then this Bill will become a dead letter, it will die a natural death.

Diwan Bahadur T. Rangachariar: I will take the message if you give it, and drop this Bill.

Mr. Muhammad Yamin Khan: This Bill has been dealt with exhaustively in Simla and there is no further necessity of going into the same question. After all, my Honourable friend was the only man who took up a new position, and he started the same old theory after knowing full well that the House had accepted the Bill, and it is only the amendments which we have to consider in this House, and there can be no question as to whether it should be rejected or not. Although there can be a voting, the House has declared its views and those views remain there.

Mr. B. V. Jadhav: Is the House debarred now?

Mr. Muhammad Yamin Khan: My Honourable friend can give his opinion three times if he wants to, I have got no dispute with him. But my Honourable friend should not have any dispute with me either. My views are these. I think there is a necessity that this Bill should be passed. It should be taken into consideration and should be passed as it has emerged from the Select Committee.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order. The House will now adjourn till a quarter past two.

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

The Assembly re-assembled after Lunch at a Quarter Past Two of the Clock, Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

RESOLUTION RE TRADE AGREEMENT SIGNED AT OTTAWA.

Sir Hari Singh Gour: Mr. B. Das, one of the Members who were appointed by this House to serve on the Ottawa Agreement Committee has tendered his resignation as he is going away. I beg to substitute the name of Diwan Bahadur Harbilas Sarda.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Chair understands that the Honourable Member wishes to ask the permission of the House to substitute the name of Diwan Bahadur Harbilas Sarda in place of Mr. Das resigned.

The Honourable Sir Joseph Bhore (Member for Commerce and Railways): I think the resignation should be tendered to the Chairman of the Committee. I have received no resignation.

(At this stage the Secretary of the Assembly handed over the letter of resignation to Sir Joseph Bhore.)

The Honourable Sir Joseph Bhore: Personally I have no objection.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): I take it that no one objects. The change is allowed.

THE CRIMINAL LAW AMENDMENT BILL—contd.

Sir Abdur Rahim (Calcutta and Suburbs: Muhammadan Urban): Mr. President, the justification of the Bill, from his point of view, was very candidly put by the Honourable Member, Sir Leslie Hudson, who said that there was a state of war and, therefore, it was justifiable on the part of Government to ask for and utilise any weapon it chooses in order to wage war against the Congress. I only wish, if this be war, that the civilised European nations had learnt to wage war on these principles instead of killing millions of people and wasting the energies and the resources of the whole world. If they confined themselves to peaceful efforts or civil efforts, in order to dissuade each other or any particularly refractory nation from carrying out its policy, it would have been a better position for the whole world.

Let us examine this position from that point of view, for that is the point of view, I take it, of the Government. The Government say that the Congress is the only powerful political organisation in this country, that they alone can deliver the goods and, so long as they do not give up certain items of their policy, Government are entitled to enact any laws, however wide their general application and however oppressive they may be to the ordinary citizen. Sir, many of us on this side of the House do not belong to the Congress and do not subscribe to their policy or to many of their methods. Our standpoint is this, that we should not have any sort of law which is calculated to suppress the liberty of the people generally and, I submit, there is nothing in the circumstances of the country which entitles the Government to bring in a measure of this sweeping character. I do recognise that some improvements have been effected in the original Bill,

but the Bill in substance remains the same and the Honourable Member in charge of it made it very clear at the outset, when he moved for the appointment of a Select Committee, that he would not accept any amendment in the Committee which would reduce the Bill to a pale shadow of its original self, as he put it, and deprive the Government of the substantial powers which they wanted to secure by this measure. Mr. Haig said that the original Bill, as drafted, was a wise measure, but he says now that the Bill, as it has emerged from the Select Committee, is a reasonable measure. I hope he will enlighten the House as to the distinction between the two. Does he want to convey that what is wise is not reasonable and what is reasonable is not wise? I say that there is really no real distinction between the original draft and the present Bill. The two are identical in all substantial respects. Then the question is, whether the Honourable Member, who knows, none better, how to put forward his case, has made out a case for the acceptance of the measure by this House. Our fundamental objection has been that the present law is sufficient to meet any movement or manifestation of any movement, as the Honourable the Home Member would call it, civil disobedience or terrorism. I may pause here and point out that, manifestation of a movement as an evil to be remedied by penal legislation is a new phraseology. I have not seen it hitherto in any law. Perhaps the Honourable the Law Member will be pleased to enlighten us whether the word "Manifestation" occurs in any law. We are familiar with the phrase "overt act". We are familiar with the word "attempt", with the word "intention", but "manifestation" is too sweeping a word to define the scope of penal statute. The point I made, when I opposed the motion for Select Committee, was that we have got in the Criminal Procedure Code and in the Penal Code and other enactments now in force, for instance, the Police Act and the Emergency Press Act, all that is needed to meet such unlawful and undesirable activities of the Congress or any other body or person which you want to check. I listened with attention to everything that was said by the Honourable the Home Member in justification of this measure, but I failed to notice anything in his speech which showed or which attempted to show that the present law is insufficient to meet any evil which they wanted to combat. That was the point we tried to make and hitherto it has not been answered by anybody.

What do Government want? Take, for instance, the Congress. As I have said, many of us do not belong to that organisation at all. And, certainly, I have no sympathy with many of its activities. They want to suppress not only certain activities, but almost the entire Congress organisation. By what means? I take it, by shutting up members of the Congress in jail. Now, I venture to point out that Government do not want any special law for that purpose. The ordinary laws are quite sufficient. It is the very propaganda of the Congress to fill the jails, as much as possible, to create public opinion against this Government by showing to the world that, in order to suppress the political liberties and activities of the people, the Government have locked up so many citizens of India and so many persons who are keenly interested in the political advancement of India. That has been their programme throughout. It is their professed programme. Then, why do Government want this Bill? It cannot be, I say, to suppress the Congress or to suppress any of the activities of the Congress. It must be for some other ulterior purpose. What is that ulterior purpose? Sir, the Honourable the Home Member has told us that he has

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consented to a very great improvement of the Bill by limiting its operation to a period of three years. No doubt to that extent the Bill has been improved. Then, he says: "We are going to hand over the reins of Government." I do not know, I did not quite catch, to whom? But, I suppose that, at any rate, he meant to convey "to the representatives of the people." Otherwise there would be no force in that suggestion. Now, if that is going to happen, if that is going to result from the labours of the Third Round Table Conference, and if that is going to be embodied in an enactment of the British Parliament, then I ask, what would prevent the Congress from coming in at once and repealing this measure? Supposing the new constitution comes into force in the course of a year—which, the papers say, is possible. Then, in that case, in the course of a year, the Congress may come in and repeat the entire measure. Is there any satisfaction to be derived by the Government from a proposal of this character? I ask the Government, why satisfy yourselves? Supposing the Congress does not choose to come in, other men may come in who are condemning this Bill. If we are going to have responsible government, then they will also act in a similar way like those who are opposing this Bill now. They are not going to change their attitude. Then, what do Government gain by it? I ask the Honourable the Home Member to give me an answer to this question in his reply. "What is the gain?" Sir, we put this question. If he told us what really was at the back of the minds of the Government, we would have considered it far more seriously than we are at present inclined to do. The position, therefore, is this: We find that Indian public opinion is opposed to this measure, and that is the admission of the Honourable the Law Member himself. I mean the Home Member.

The Honourable Sir Brojendra Mitter (Law Member): If by "public opinion" the Honourable Member means "Congress opinion", certainly that is opposed to it. But public opinion is not confined to the Congress.

Sir Abdur Rahim: Sir, I am not inclined to accept the claim that the Honourable the Law Member or his colleagues on the Treasury Benches are the exponents of public opinion (Hear, hear), or even my friend, Sir Leslie Hudson. Do they claim that,—that they are the exponents of public opinion? Then, why do they contemplate any change of Government? (Laughter.) Sir, the whole position taken up is inconsistent and untenable,—unless Government are so excited by the activities of the Congress and so angry at what they are doing or what they threaten to do that they really do not know what they are aiming at. Sir, I have very great respect amounting almost to awe for the shrewdness and foresight of the British diplomats in India and I do not think that they would bring in a futile measure. I do not think they would have brought in this measure if really their intention was to hand over the government to a responsible Legislature, to the representatives of the people. Sir, the policy embodied in the Bill is perfectly plain. They want, for instance, British trade to be protected by prohibiting any sort of activity which may be considered to lead to a boycott. That is one object. Then, the other is to strengthen the hands of the executive, to place the executive above the operation of law, to give the executive a discretion which, under the ordinary law, is only given to the judiciary. They want really to substitute the discretion of the executive authority—not only of the Government but

also of public servants—in place of law. That is the whole purport of this Bill, the chief object of the Bill. If that is so, then I do not accept for one moment the suggestion that they really want to arm the executive of the future, if it is going to be responsible to the people themselves, with powers of this character, which they themselves did not possess all these 150 years. Sir, it is impossible for any one who really goes deeply into the matter to accept the proposition of the Government at its face value. We have to analyse the position carefully before we can place a Bill of this character on the Statute-book even for three years or even for one year. I do not propose to go through all the provisions of the Bill, but I will satisfy myself with referring only to some of its leading provisions, but, before I do that, let me put one question to my Honourable friend, Mr. Yamin Khan. Sir, he can only see the Congress before his eyes and nothing else. That is his misfortune. If he took a wider view, if he turned his attention

Mr. Muhammad Yamin Khan: No, Sir. I see Chittagong and the attack on Sir Alfred Watson and other activities also.

Sir Abdur Rahim: Then I want to ask him to answer categorically this one question: does he want the Ahrar movement to be treated in this way? Does he want the Jamiat-ul-Ulema to be suppressed? Does he want the Red Shirts of the North-West Frontier Province to be suppressed? Does he want them all to be treated, as they have been treated under the Ordinances or the Frontier Regulations.

Mr. Muhammad Yamin Khan: Anything, Sir, which hinders the progress of the country.

Sir Abdur Rahim: Does he want the Jamiat-ul-Ulema, the Ahrar movement and movements of that character to be suppressed? That is my question. I know he cannot answer this straight question. Sir, when the motion was before the House for the reference of this Bill to the Select Committee, I ventured to inquire of the Government whether they had any statistics, figures or information to give us as regards the number of men who had been actually dissuaded from joining the army or the police force or the air force or any other force maintained for purposes of defence. Sir, I have inquired of some of the Members of the Select Committee and I find that even in the Select Committee no such figures and no such information was forthcoming. I grant that some members of the Congress, and perhaps some Ahrars, and perhaps some Red Shirts, and perhaps some members of the Jamiat-ul-Ulema have tried to persuade people not to join the present army.

Major Nawab Ahmad Nawaz Khan (Nominated Non-Official): The Red Shirt movement is the Congress movement and a similar legislation has been passed in my province by the majority of elected members.

Sir Abdur Rahim: My friend comes from the Frontier and I am sure he will answer to the Red Shirts when the occasion arises. Sir, no such information has been supplied. Many people have their own views and they may persuade others to accept their views. Do Government mean to say that that is enough justification for them to enact provisions of

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this character? In that case, people will not be allowed to talk at all. Now, that disposes of, in my opinion, this part of the Bill, unless the Honourable the Home Member can supply information to this House as to how many men have deserted the army or the police force and how many men have been dissuaded from joining those forces. Has the strength of the army or the police at all been diminished in consequence of it? If not, then, I submit, there is no justification

Major Nawab Ahmad Nawaz Khan: The Garhwal Rifa was intimidated in the Frontier Province.

Sir Abdur Rahim: Now, I come to the next clause which relates to boycotting of public servants. Well, Sir, of all classes of people, it seems to me that the public servants, those Indians who have the good fortune or honour to be public servants, are in a more comfortable position than the rest of the people. I put this forward as a general proposition and I believe no one will challenge it. Boycotting of public servants has really no significance. There may be isolated cases. Some individuals, who are public servants, might have been put to inconvenience, because some landlords did not want to let their houses to them or because certain persons who were asked to supply them provisions would not do so. Public servants alone are not liable to be put to occasional inconvenience like that. Many of us who are not public servants have been put to inconvenience of that character. We cannot get whatever we want. And then look at the nature of the weapon placed in their hands. It was pointed out by Member after Member in this House on the previous occasion that it is a weapon which, in the hands of all sorts of public servants, is liable to gross abuses and, who does not know how grossly powers like these are liable to be abused? We have to look a measure of this character from all points of view, from its probable consequences and not merely the mere words. You have got to look to the machinery and to the actual men who will have to work this law. If we do that, then I say that a provision of this character, however carefully worded, is liable and is certain to be grossly abused. The inconvenience, which it is sought to save, is really infinitesimal compared to the abuse to which it is liable. It may become the engine of extortion and blackmail by a certain class of unscrupulous public servants and, I would submit, that there is nothing in this Bill which effectually safeguards the public against such abuses.

I now come to the next clause relating to the dissemination of contents of proscribed documents. Now, supposing a man cites a certain passage at a public meeting from a proscribed book in order to condemn it, the language is so wide that he may be brought in under its operation. While I do not deny that the Select Committee did their best to improve the Bill, yet the Honourable Member in charge of it wants all these drastic provisions, provisions which are much too sweeping and which are likely to hit the ordinary peaceful citizens.

Then, Sir, I come to peaceful picketing as it is called. The word "picketing" is not used here. The language is wide enough to cover not only picketing, but any other acts which have nothing whatever to do with picketing. Is not that so? The language is wide enough to cover acts which do not amount to picketing. Sir, as regards peaceful picketing, there may be differences of opinion, but there can be no

difference of opinion as regards a clause of this character which hits at persons who are not picketing at all. It is perfectly true that no one wants to be molested in any way. If, for instance, some one is loitering about my house to molest me, I would not like it. But, is it possible even for a Government like the Government of India to see that no one is molested in any way? It happens every day, but you cannot prevent it. Then, what is the good of having a provision of this character? Either it will be useless for practical purposes or it will give a handle to persons who have a grudge against a particular person to wreak their vengeance on him.

Then, I come to clause 8 which gives power to order a parent or guardian to pay fine imposed on young persons. I am not sure that there are not principles of law which might justify a parent being fined or rather having to pay compensation for any act done by minors in their charge. But the point as regards this clause is that Government are not really making the parent or the guardian liable for civil damages, but to a fine imposed by the criminal Courts. Therefore, I think this clause also goes beyond the ordinary principles of law.

Now, I come to a very important provision, namely, clause 11. The Governor General in Council is given power to declare any association unlawful. Once he declares any association unlawful, the consequences set out in the succeeding clause follow. Is not that taking away, by one clause of this Bill, the liberty of the people to associate among themselves for public purposes? What will be the check on the Governor General in Council against abusing this power? There can be no check. The Governor General in Council must exercise his powers upon information received from the Government Departments. I do not say that they always get wrong information. But that is not the point. It may be that in many cases the police get hold of criminals, men who have actually committed a crime, but they cannot find evidence and these criminals have to go scot-free. It may be also that the executive have information which is perfectly true and perfectly well-founded, but the question is not that. The question is, whether a person or a body of persons, who are to be declared to be an unlawful body, should have a proper trial or not. You cannot convict an individual of any offence under the Penal Code, say, even for simple abuse or for anything of that character, without giving him a proper trial and a proper hearing. Are Government going to give any hearing to the association they want to declare as unlawful? No. Will the members constituting that association be tried by any one? No. The mere order of the Governor General in Council passed in the Council Chamber is sufficient to doom an association, however lawful its object may actually be. Government need not even say what is the unlawful character of this association. They need not take the public into their confidence. They need not publish their reasons. It is quite sufficient if they declare an association to be unlawful. Then once an association is declared unlawful, the Local Government, by a notification in the local Gazette, may seize its property, may seize the house of the association where it holds its meetings and anything found therein is made liable to forfeiture. These are very serious consequences. Then the consideration arises. If the Congress alone is the enemy of the present Government, why have this general law? Or do Government think that other political bodies also are like the Congress? Why not declare the Congress unlawful? Why trench upon the liberty

[Sir Abdur Rahim.]

of the ordinary citizen? That is the gist of my complaints against this Bill. I know the Government have been applauding the Congress as the only powerfully organised body, that can deliver the goods and that Government need take notice of them alone, but the members of the Congress must be put into jail, because what they say is unpalatable. As regards the rest they are of no account. Even the legislatures are of no account. The legislatures have been created by Government's own statutes. Hundreds of people have become Members of the Legislatures sacrificing their time, their money and their labours. The Government do not recognise them at all except to the extent that they are compelled to do so by Statute. (Hear, hear.) What remains then? The Congress, of course, take themselves seriously. They say, "Yes, we are the only body to be recognised in this country". The British diplomats say, "Yes, we accept that position and, therefore, we put you in jail, you shall not speak. We do not care for the others". The others may be raising the same shout constitutionally without infringing the law, but they are not to be taken into account.

Sir, I started by saying that this Bill was not really aimed merely at the activities, the undesirable activities of the Congress. This Bill is really aimed at the liberty of the people generally and I take it, Sir, that the future Government, if they are not like the present Government, if they are a Government responsible to the people, cannot be expected to accept this law. Therefore, all the time that we have been spending here is futile. It is to be remembered, Sir, that the Government wanted originally that this measure should be a permanent feature of the Penal Code, the Criminal Procedure Code and the general law of the land. They were, however, persuaded by those, on whose votes they have got to rely, to limit the duration of this measure to three years. But, that does not make any substantial difference, unless we really know what it is they really intend. Do they want this measure to go out of the Statute-book at the end of three years? Do they expect that? Then, why have this measure even for three years? Is the mentality of the people, not merely of the Congress, but of all others who are constitutionally inclined though pursuing ideals similar to those of the Congress, are they going to suffer a law of this nature to remain on the Statute-book? Supposing the Honourable the Home Member and his English colleagues are no longer on the Treasury Benches after the new constitution has become law, then, in that case, will those, who will take their place, desire to keep this Statute going. I am afraid, they are not in a position to answer that question. Sir, I submit, that unless there is something really much deeper behind this Bill than we can fathom on the face of it, the Bill is a measure which lacks justification altogether. We know, as a matter of fact, that the Provincial Governments have passed enactments of a very drastic character to meet the local situation. In Bengal, we have the Terrorist Suppression Act, or whatever it is called. In the United Provinces, the Government have, I believe, passed a similar measure. The Punjab Government have passed another measure and, I believe, the Bombay Government also have under consideration a Bill of this kind, and we may take it, that the Bombay Government will pass it into law.

Mr. Muhammad Yamin Khan: What does that show? Is it not that public opinion is reflected by those who are in support of the Bill?

Sir Abdur Rahim: My Honourable friend, Mr. Yamin Khan, is confusing matters altogether. My argument is, if he will care to follow it, that the provinces have their own remedy for the situation which has arisen there. But why punish the ordinary citizen of entire India? Sir, I do not think the Honourable the Home Member, who is in charge of this Bill, gave that explanation.

The Honourable Mr. H. G. Haig (Home Member): Sir, I made it plain in my opening speech that this Bill, which this House is being invited to pass, was the foundation on which the local Bills were being framed, and if this Bill were not there, the local Bills would have been framed in an altogether different manner.

Sir Abdur Rahim: Sir, when they passed these Bills in the local Councils, this Bill might have been introduced here or might have been contemplated by the Government of India, but it was not passed and has not yet been passed. Then, how could it be the foundation? If the Honourable Member had pointed out any provisions in the local Acts which depend upon these provisions, then certainly his argument would have been sound. But it could not be, because we are now debating this Bill and the Provincial Governments have already passed their Acts. This sort of foundation is very difficult for one to appreciate. Sir, I am not concerned with the Congress and I protest against every one being dealt with as if he were a member of the Congress, unless the Honourable the Home Member is prepared to admit, on the floor of this House, that the Congress represents the entire political opinion of India. Is he prepared to admit that? I am sure, he is not. He will probably admit that whatever political opinion there is in the country is against this measure, barring people like my Honourable friend, Mr. Yamin Khan, and a few others who support Government. If any one reads the press as expressing the Indian opinion, what is said at public meetings, and consider the attitude of the majority of elected Members of this House, then, I say, there can be no doubt about public opinion.

The Honourable Mr. H. G. Haig: What about the local Councils?

Sir Abdur Rahim: Even if they take the last division which was on a narrower issue, Government will find that the majority of the elected Members voted against the Bill.

Mr. B. R. Puri (West Punjab: Non-Muhammadan): Sir, I had the good fortune or the misfortune to be one of the Members who took part in the deliberations of the Select Committee. I had also the good fortune or the misfortune to form one of the batch of four Members who walked out from the Select Committee. Sir, so far as the incidents connected with that matter are concerned, I have got no desire to go into details. I know that the repetition of those incidents would be a source of embarrassment and discomfort to my Honourable friends across the floor of this House; and I do not want to add anything to the pain which this incident must have caused to them as well as to us. Sir, while I am not going into this matter over again, I must make it perfectly clear that I and my three other colleagues, who walked out from the Select Committee, stand by every word of the statement which we issued to the press and we are not prepared to take back one word or syllable from that statement. We stand by the absolute accuracy of that statement in spite

[Mr. B. B. Pari:] "New Despotism" is replete with passages on almost every page; he has taken pains to show to the British people the extreme danger and peril of any Parliamentary or legislative body surrendering its functions, consciously or unconsciously, to the executive agencies piecemeal and in bits. He has cited instances from various enactments where the British Parliament has done so; but the position is not identical in this country. The British Parliament, as somebody remarked, if they were to lay down that a man is a woman and a woman is a man, the Courts cannot go behind that; they must obey it. But the position in India is not the same. We are a subordinate legislative body; they are a sovereign body; it is from that sovereign body that we have received our powers and we are here by virtue of the powers which have been conferred upon this Legislature by an Act of Parliament. If that Act of Parliament permits us to delegate those powers in favour of any outside agency, we would be within our rights. If, on the other hand, the powers of legislation are conferred upon us and upon us alone, to the exclusion of every other agency or every other person or individual, then we have no power to pass such laws authorising Local Government to enact laws as our agent.

Sir, the Government, it appears, in their zeal for repressive measures, have lost their heads. They have actually gone the length of commending to us to pass laws, the samples of which are to be found in clause 10. I contend that clause 10 offends against the Act of the British Parliament which should be our sole guide. Our powers are defined in section 65 of the Government of India Act, which says that "the Indian Legislature shall have the power to make laws for all classes of people and for all places in this country". I would particularly invite the attention of the House to the territorial extent of our powers. There is no part of the country which is outside our jurisdiction. Any attempt, therefore, on our part to allow any one to make laws in any part of this country, in violation of that Act of Parliament, would be a piece of gross legislative impertinence. Nothing short of it.

I now come, Sir, to clause 11 which is more or less of the same type as clause 10, but with this difference, that instead of "the Local Government", we have got in clause 11 "the Governor General in Council" substituted, but that makes no difference so far as the principle involved is concerned.

We now come to clause 13, which is the most mischievous clause. Under this clause the Local Government is empowered to declare the "notified places". Sir, if it was mere "notifying" such places, perhaps it didn't matter; but our unfortunate part comes that the moment the Local Government declares a place to be a notified place, then a series of results follow. After such notification, comes the District Magistrate, and says: "I take possession of this notified place"—and either he or any one of his nominees takes possession of that place. That is followed by the forfeiture of everything that is found on the premises, moveable or immovable, it makes no difference. Even the cash and money which has been used or is likely to be used for objectionable purposes can be taken possession of, so that the person in possession of the premises can be denuded of his last penny. The provision, therefore, is of a very very far-reaching character, and it starts by an illegal act of the Local Government, namely, of "notifying" of the place which the Legislature cannot in law empower the Local Government to do. I submit, this is a most

indefensible position. The Honourable the Home Member fully knows this legal aspect of the question. It was urged in the Select Committee, and after yesterday's incident I was fully hoping that the Government would themselves withdraw these provisions. I must confess I have been disappointed.

Now, Sir, I will ask the House to consider another clause of this Bill, namely, clause 5. This clause relates to the dissemination of contents of proscribed documents. My object in referring to this clause is to show the utter childish character of the provision. If a particular publication is proscribed, the consequence is that it is forfeited to Government. But if after such publication is forfeited, any party proceeds to circulate or publish any portion out of that proscribed book, he is liable to six months' imprisonment and fine. In the first instance, I would ask the House to consider this point. The original offender is merely penalised to the extent of being dispossessed of his publication; but if another person culls out a passage from that book, even if that passage is not objectionable, he is liable to a much greater penalty and punishment than the original offender. That is the first aspect which should strike any one. But the most objectionable part is the second clause which says that no Court shall take cognisance of an offence punishable under this section unless the Local Government has certified that the passage published, circulated or repeated, contains, in the opinion of the Local Government, seditious or other matter of the nature referred to, etc., etc. It really comes to this, that the prosecution in such a case is permitted to put in a sort of a certificate from the Local Government to the effect that here is 3/4ths of our case already proved, and this is the letter certifying that fact from the head of the Local Government. What is the poor Magistrate to do under these circumstances except to pass a sentence upon the accused? I say that any communication, any recommendation, emanating from the executive authorities intended to influence the judicial discretion of a Magistrate, is to be censured in most clear terms. It is a position which cannot be tolerated. It is common knowledge that in acquittal appeals, which are argued before the High Courts, any reference to the opinion of the Government is strongly put down and never allowed to be made as it amounts to an attempt to influence the judgment of the Court. I will ask you to profit by this practice of the High Courts. If such a thing would not be tolerated in a High Court, how can you justify this clause under which the police or the party in charge of the prosecution can come armed with a certificate from the Local Government saying, "We consider this passage to be objectionable and we call upon you to pronounce against the accused your sentence?" Is it not a most diabolical provision? Is it not a provision which offends against the most elementary principles upon which the administration of criminal justice is founded?

So far as the life of the Bill is concerned, I submit that the period of three years has no justification. After all, the period is to be fixed on some principle. In urging that this Bill should not go beyond six months, we claim we have followed a certain principle. We have been told often and often by the Government that this is an emergency measure. And we have adopted the principle which underlies section 72 of the Government of India Act, which says that an Ordinance, as being an emergency measure, shall have its life not beyond six months. Therefore, following

[Mr. B. R. Puri.]

that principle we urged that this being an emergency measure, its life should not be prolonged beyond six months. On the contrary, we know that originally the Government's intention was to have this Bill passed for an unlimited period. Then they came down to five years, and, later on, they climbed down to three years. I maintain that all these periods are arbitrary, there is no principle involved in their fixing it at five years any more than there is in fixing it at three years. All that we are told is that by the end of three years the new constitutional changes shall have been introduced and that it is desirable that this Bill should remain in force till after those changes are introduced. In order to read the real mind of the Government, in order to understand whether this plea of the Government is a genuine and sincere plea,—may I ask what their argument was when they originally advocated that the Bill should be in force for an unlimited period? And what again was their justification for urging that the Bill should remain in force for five years? And now that it has come down to three years, what is the point in making this Bill to remain in force until after those changes have been introduced? The very fact that some reforms are needed connotes that there are some evils that have to be remedied. And how can we get any reforms unless we are able to urge what those evils are, what the nature of those evils is, what the extent of those evils is? And, for that, we should have the liberty of speech, the liberty of the press. After all, it is not for the boot maker, but for the man who wears the shoe, to say where the shoe pinches. Therefore, if we are not permitted to express what our grievances are, what those evils are which we want to be replaced by reforms, how can we achieve anything worth having? Suppose one of the evils be that your police is corrupt. Can I afford to say so in the face of such laws which you propose to make? I cannot institute a declaratory suit that the police in this country are corrupt. I can only do it either on the platform or in the press. But if, under your boycott law, a private individual's shadow falls upon a police officer, he will be guilty, if, as the Honourable the Home Member says, you invite every other person in the town and you do not invite the local police officer, you are boycotting him, how can you move in the matter at all?

The Honourable Mr. H. G. Haig: Did I say that?

Mr. B. R. Puri: You are practically saying that. I do not say that you said so in so many words. But boycott means this, one form of it is if you exclude him from all social functions. I say that you are shutting out the very channels by which we can ventilate our grievances and explain our real difficulties. But with your present laws you are gagging us. You are crippling us, so that we shall be utterly helpless to say what we want. Under those conditions, I submit, that this is a measure which cannot be tolerated even for a moment so far as the peoples' view point is concerned, however convenient and helpful it may be to Government.

With regard to clauses 2 and 14, I would only say one or two words. This is a clause with regard to dissuasion. The Bill provides two exceptions and my submission is that however beautifully those two exceptions may have been worded, they are only exceptions after all. They place the burden of proof on an accused person and I submit that that is opposed

to the fundamental principles of jurisprudence. If it was an act *per se* objectionable, you can certainly place the burden of proof on the accused person, but an act which might or might not be bad according to the circumstances, why should a presumption be made in favour of the prosecution. If a presumption is to be made at all, it should be made in favour of the accused. With regard to this particular clause, there is one important observation I want to make. My Honourable friend, Sir Abdur Rahim, referred to it and it is this. In the Select Committee we asked the Honourable the Home Member if there was any data available which would justify the creation of this new offence, and we were told that there was no data on that point.

The Honourable Mr. H. G. Haig: I think I said I had no information available at the moment.

Mr. B. R. Puri: I am speaking of that particular moment. I am not in a position to know if since then any information has come in.

The Honourable Mr. H. G. Haig: I hope at a later stage to place certain information before the House.

Mr. B. R. Puri: We are at the moment considering what was the justification for creating this new offence at a time when there was no information available before the Government.

The Honourable Mr. H. G. Haig: It was not that there was no information available to Government. I did not happen to have it with me at the moment.

Mr. B. R. Puri: The position then taken was that there was no information and no data available at that time to justify the creation of an offence of that kind and I would take my stand on that assurance. You cannot create and make laws which can be held *in terrorem* upon the people, because you think that some day they might possibly misbehave themselves. That is not the spirit and that is not the theory upon which legislation ought to proceed. I, therefore, oppose this Bill *in toto*, although I am speaking on the circulation motion. Without multiplying instances, I have placed before the House a few material facts in order to convince the House that it is a most pernicious measure which would not be tolerated in any country.

The Honourable Sir Brojendra Mitter: I shall not take up the time of the House for long, because, in the course of the debate, only two points have emerged which require an answer from me. One point was made by Mr. Puri with regard to clauses 10, 11 and 13, that under the Bill power is given to the Local Government to declare a particular area. The point is that this is delegation of legislative power and is, therefore, *ultra vires*. Probably the Honourable Member forgot the recent judgment of a Special Bench of the Bombay High Court, delivered on the 20th July this year, in which the Chief Justice dealt with a similar clause in the Ordinance. For this purpose it makes no difference whether the law making authority is the Governor General or the Legislature. The point was taken there that the Governor General might have had power of

[Sir Brojendra Mitter.]

legislation, but he had no power to delegate his legislative function to a local authority. This is what the learned Chief Justice says:

"Sub-section (5) of section 1 provides that that section and section 63 extend to the whole of British India, and the remaining provisions of the Ordinance are to extend only to such provinces or parts of the provinces as the Governor General in Council may, by notification in the Gazette of India, specify and sub-section (5) provides that that section and section 63 shall come into force at once and that the Local Government may, by notification in the local official Gazette, direct that any or all of the remaining provisions shall come into force in any area to which they have been extended on such date as may be appointed in the notification. It is not disputed by the applicant that the Governor General in Council has, by notification in the Gazette of India, extended the Ordinance to the province of Bombay, and that the Local Government have, by notification, directed that it shall come into force in the area in question, that is, the area of Sholapur. But it is said that the Governor General has no power to delegate to the Governor General in Council or to the Local Government the power of saying to what particular area and at what particular time the Ordinance was to operate. (The point which has been taken here.) It is said that the effect of the Ordinance, as promulgated by the Governor General, is that it is left to an inferior authority to promulgate the rest of the Ordinance. I think the argument really confuses the power to make a law, and the power to administer the law when made. It is no doubt for the Governor General, and the Governor General alone (as it is for the Legislature) to promulgate an Ordinance, which is a formal emergency legislation, but I see no reason why, in the law which he promulgates, he should not provide that it is to come into operation at such time, or in such areas as may be determined by a third party."

Sir Hari Singh Gour: Does the Honourable the Law Member say that this is the case here?

The Honourable Sir Brojendra Mitter: It is precisely the case here. It goes on:

"It seems to me that by so doing he is not delegating the right to make a law. He is merely providing how the law which he makes is to be administered. I think authority for that view is to be found in the case relied on by the Advocate General, *Empress v. Bura*. I feel, therefore, no doubt that this Ordinance has been properly and regularly promulgated in Bombay."

That is an enough answer to the question.

Mr. B. R. Puri: Does the Honourable Member think that clause 10 can be defended like that? Does he seriously maintain that?

The Honourable Sir Brojendra Mitter: That conclusively disposes of that objection. The next point to which I think an answer is called for is the one made by Sir Abdur Rahim. He said that the ordinary law provided for all the illegal manifestations of the civil disobedience movement and, therefore, no further legislation was necessary. Sir, my short answer is this, that the ordinary law does not cover many of the illegal activities of the Congress, and I shall give only two instances. The ordinary law has no remedy for picketing, and the ordinary law provides no remedy for boycott. Therefore—I am not, Sir, arguing whether the measures which we are proposing are adequate or necessary in the circumstances of the country at the present moment—all I am saying is that these particular manifestations of the civil disobedience movement are not covered by the ordinary law of the land as it now stands.

Mr. A. B. Khan (Allahabad and Jhansi Divisions: Non-Muhammadian Region): I came to this House as a staunch co-operator with the Government and an inveterate believer in the British connection. My function inside this House, as a Member, is always to give the best advice according to my conscience on any question that arises in the House. It would be idle to deny that there is a spirit of flouting a particular kind of law rampant in the country at this time and it would also be futile to deny that something must be done to check that spirit, as, otherwise, the consequences would be of a very far-reaching nature. Under these circumstances, I consider that it is the bounden duty of the Government to devise means by which this trouble can be checked as well as the bounden duty of every Member of this House, either inside or outside the House, to do his bit to see that this state of affairs is brought to an end in a satisfactory way. Sir, with this idea of my duty and with a full sense of responsibility as a Member of the Indian House of Commons, I shall place before the Honourable Members certain aspects of the question which strike me as being very essential and which, I consider, have not been dealt with yet. Now, with all the emphasis at my command, I say that in order to be true to myself, to my country and to my sovereign, I shall, in putting forth my views, remain open to conviction and if, by the time this debate is concluded, the Honourable the Home Member's arguments or those of my friends on this side convince me of the propriety and soundness of their views, I shall cast my vote for that party, accordingly.

The question before this House is, how to put down what is generally known as the civil disobedience movement. There is no doubt that from the time this movement has taken root in this country, due to various repressive measures, which, promulgated as they were in a form which would always be liable to corruption and abuse by the authorities, the administration of justice by the subordinate magistracy in this country is reduced more or less to a farce. One often asks oneself this question—who is the greater offender in trampling under the feet the sanctity of law,—the khaddar-clad men or the liveried representatives of the Government who arrest them or the magistrates who are supposed to hold their trial according to the best traditions of British jurisprudence? Well, Sir, this was a mere digression. Coming back to the point again, I say, the question is, how are we to provide means to do away with or to suppress or finish, once for all, this trouble which is now arising in the country? I must say that from this side of the House—I may be mistaken and I am always open to correction—no constructive proposals have been put forward as to how we can tackle this problem. As far as I understand, it was suggested by one of the Honourable Members on this side,—I do not know whether he seriously pressed that point,—that once Mahatma Gandhi is released, this trouble will be over. I, Sir, who claim to be second to none in my respect for Mahatma Gandhi, have got my own opinion on this point. Truthful and honest as he always is, I do not think that if this question is put to him, he will himself say that "if I come out, this movement will come to an end". If that is the case, I am afraid the only constructive proposal which has come from this side of the House should really not deserve any serious consideration by any Member of the House. There is no doubt in the soundness of the contention brought forward by my Honourable friend, Mr. Anwar-ul-Azim, that since he pays heavy taxes, he has a right to expect the Government to look after his personal security and the security of his property. Sir, I feel, that way myself, and I also hold that the Government are responsible for maintaining law and order

[Sir Muhammad Yakub.]

Then, Sir, sub-clause (2) of clause 4 makes this still more lenient. It says:

"No Court shall take cognisance of an offence punishable under this section unless upon complaint made by order of or under authority from the Local Government or some officer empowered by the Local Government in this behalf."

It has been said that this clause might be abused by some petty Government official. It is, in order to safeguard against such abuse of power, that sub-clause 2 has been added. Then, again, Sir, is there any law in this country which cannot be abused? The Indian Penal Code is abused. The Criminal Procedure Code is abused. I do not say that the Government officials, who sit on the benches, are saints. They do sometimes abuse the laws which they have to administer.

Mr. M. Maswood Ahmad (Patna and Chota Nagpur *cum* Orissa: Muhammadan): This measure is also of that kind.

Sir Muhammad Yakub: But on the ground that there is a possibility of any law being abused, will you repeal that law and will you remove all such laws from the Statute-book? It is absurd to make an assertion like that.

Then, Sir, objection was taken to clause 5, and it was pointed out that when the whole book is proscribed, no punishment is given to the author, but if a man only repeats an extract from it, he is liable to punishment. The answer to that is quite clear. It was the first offence while this is a repetition of the offence. Before the book was proscribed, its publication was no offence, but if, knowing that a thing is proscribed, a man proceeds to repeat it, he not only repeats the offence, but he shows a disregard to the law of the country and, therefore, this offence is rightly made more serious than the first offence.

As regards the other provisions of the Bill, an objection was taken to clause 8, which deals with the liability of the parents to pay fines on behalf of the children. Here, too, Honourable Members will find that this is not a novel provision. This provision has found a place on the Statute-book of the country for many years, even before this contingency had arisen, and no objection was taken to it.

Mr. M. Maswood Ahmad: Will the Honourable Member please quote the Acts?

Sir Muhammad Yakub: The Honourable Member must learn some law.

Mr. M. Maswood Ahmad: I know more than you do.

Sir Muhammad Yakub: The Children's Act of Bombay is one and there are many other Acts of this kind under which parents are made liable to pay fines for the children.

Mr. Gya Prasad Singh: Why not get a list from the Home Department?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order. The Honourable Member should be allowed to go on.

Sir Muhammad Yakub: I will not be bullied by buffoons like you.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order. The Honourable Member cannot call a Member of this House a buffoon.

Sir Muhammad Yakub: I withdraw that word, Sir, but I crave your protection. Whenever we rise to make speeches, there are certain Members on those Benches who make it their business to interject and try to stop us from going on with our speeches.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member knows that, before he got excited, the Chair did call Honourable Members to order when they were interrupting him so frequently.

Sir Muhammad Yakub: I am thankful to the Chair.

Then, Sir, it is not only the parents who are made liable to pay fines under this section. Honourable Members, if they will carefully go through the section, will find that the explanation to the clause which has been added by the Select Committee says that:

"In this section the word 'guardian' includes any person who, in the opinion of the Court, has for the time being the charge of, or control over, the offender."

What happens is this, that certain adult Congress volunteers take charge of small urchins and pay them two annas or four annas a day. Some of these children have no parents; as regards others, their parents know nothing as to what these urchins are being made to do. And, therefore, if a parent is not responsible for the act of the child, he will not be held responsible for paying the fine at all; and it is really the man who has charge of the child at the time the offence is committed who will have to pay the fine. Therefore, any inconvenience, which would have been caused to a parent who is not responsible for the act of the child, has been taken away or removed.

As regards the declaration of unlawful associations and confiscation of property, Honourable Members will find that in clause 13, section 17 of the Indian Criminal Law Amendment Act has been redrafted altogether, and in order to take away the rigour of the clauses, provisions have been provided that people who are aggrieved by such orders may go to the judicial Court and get their claims established.

My Honourable friend, Mr. Puri, has raised objection, and, in his opinion, a serious objection, about clauses 10 and 11. But I am really surprised that an eminent lawyer like Mr. Puri should raise such an objection. A close perusal of the Bill will show that the power of legislation has not been delegated to any local authority. The power of legislation has been reserved by this Legislature, and the Legislature itself has made certain amendments. It is only the application of certain provisions of the Bill which has been left to the discretion of the Local Governments and that is not a delegation of the authority of legislation to which objection was raised.

[Sir Muhammad Yakub:] I should kill him and if anybody stops me from doing so or makes a law which prevents me from committing that murder, he curtails the liberty of my action. If a woman wants to marry four husbands, why is she stopped from doing so? So, I say, that all the laws that are in force in a country do place certain restraint on the liberty of the people. But we have got to see whether that curtailment of liberty is for the good of the country or otherwise. Now, it was made abundantly clear on the previous occasion that the emergency measure, which is intended to be placed on the Statute-book, is for the good of the country. Much stress has been laid upon public opinion and it has been said that we ought to take the public opinion before we bring any such measure on the Statute-book. Sir, if you go into the bazaar, if you go into a village, if you meet an ordinary man on the street, who has got no newspaper to ventilate his views, the man who has got no organisation to tell you his grievances, you will find that at least 70 per cent. of the population of this country are tired of the Congress movement. Look at the state of the poor tradesman who earns about eight or ten annas a day with which to feed his family consisting of six or eight persons. For three days out of a week, the Congress proclaims a *hartal*, because one man is sent to jail or another man has started his fast. It is all very good for the holiday making boys and volunteers, because they get Rs. 1-4-0 a day from the Congress funds, but what about that poor merchant whose income has been lost and whose children will have to starve the whole day. The opinion of the country is so clear on this point that it is futile and simply foolish to say that opinions of the country have not been obtained. Let us now see the provisions of the Bill. As I have already stated, drastic measures they are and drastic measures they will remain, but they are intended to meet a more drastic and a more pernicious movement and, therefore, some hardship will have to be allowed. But anybody, who would carefully go through the report of the Select Committee, would find that the rigour of the measure has been very much softened and the corners of the Bill have been rubbed so much as was possible for a measure like this. The improvement which this Bill has undergone through the Select Committee can be judged by the very fact that even the official members were obliged to add a minute of dissent. This clearly shows to what extent the Bill has been modified by the Select Committee and to what extent it has been improved. Now, Sir, my Honourable and learned friend, the ex-Chief Justice of the Madras High Court and the President and Leader of the Independent Party, in criticising clause 2 said that the wording of clause 2 was very wide and that it would entail great hardship upon the public. Probably he forgot to read the exception which has been added by the Select Committee and which was not in the original Bill. This exception says:

"This provision does not extend to comments on or criticisms of the policy of Government in connection with the military, naval, air or police service made in good faith and without any intention to dissuade from enlistment."

Comments of this description are not to be considered an offence under this clause. After this exception has been inserted in the Bill, the objections which were raised by the Honourable the Leader of the Independent Party do not hold any ground. Then, again, exception II still further modifies this provision. It says:

"This provision does not extend to the case in which advice is given in good faith for the benefit of the individual to whom it is given or for the benefit of any member of his family or of any of his dependants."

Now, this exception has been extended so much that if an advice is given not only for the benefit of that person, but also for the benefit of any of the members of his family and his dependants also, it does not come, under the category of offences enumerated in the Bill. I submit, therefore, that the rigour which was contained in clause 2 has been taken away by the exceptions which I have just read out to the House. As regards boycott of public servants, I am very sorry that the Honourable the Leader of the Independent Party has dealt with the subject in a very light-hearted manner. If he were still holding the position of the Chief Justice, which he held for many years, or if he were still a Member of the Executive Council and if in a town in which he happens to go, the washermen had refused to wash his clothes, the scavenger had refused to clean his bath-room, the barbers had refused to shave him or his servants, I do not think he would talk about this clause so lightly as he did this afternoon, and I do not think he would have said, "We all have to undergo such inconveniences".

Then, consider the case of a petty Government official who is posted in a small town, there is only one mid-wife or one lady doctor and she is threatened or she is forced by the Congress volunteers not to serve or attend upon the wife of that Government official who is on the verge of confinement. To treat this matter so lightly and to say that such inconveniences we have often to bear is a thing which seems to me unthinkable and I am really sorry that an experienced man like him, who has been for such a long time in the public life, should treat such a state of affairs so lightly as the Honourable the Leader of the Independent Party has done

Mr. B. V. Jadhav: Is that contingency provided for in the amended Bill?

Sir Muhammad Yakub: I cannot understand what the Honourable Member says. He was also in the Select Committee.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Please go on.

Sir Muhammad Yakub: We have made certain amendments in the body of clause 4 also. We have added the words, "usually let for hire" in the case of houses, and also in the case of land, "not being cultivated land" and in the case of medical attendance, the words "withholds from such person or his family such medical services as he would ordinarily render", and, I submit, that by adding these words, we have restricted the scope of the clause and the clause has been improved as much as could be expected. Of course everybody admits, even the Secretary of State for India admits, that these are very drastic measures and nobody likes these measures. It has been said by some Honourable Members, why have this measure for three years. I say to them, it is in your hands. Even today if you can make Mr. Gandhi declare that civil disobedience is withdrawn, that the Congress activities are suspended, there is nothing to prevent us from coming to the House tomorrow and getting this Bill repealed with the consent of everybody in the House. It is the men who commit the offences who are responsible for having a measure like this and not those who have got to maintain law and order in the land and who have got to safeguard the liberty of the poor villager and the poor merchant.

Sir Hari Singh Gour: You have given the Local Government power to amend the Criminal Procedure Code.

Sir Muhammad Yakub: The power to amend the Criminal Procedure Code is not left to the Local Governments. They cannot, at their own sweet will, amend the provisions of any section they like. But what is meant is that as regards certain sections the power has been given by this Legislature to the Local Governments to declare them non-bailable or cognisable and things like that. So this is not really a delegation of the legislative power about which objection was raised by the Honourable Mr. Puri.

Diwan Bahadur T. Rangachariar: Will my Honourable friend read the last clause in section 10?

Sir Hari Singh Gour: If the Honourable the Home Member is going to support you on the last point, you should be satisfied.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Let there be no interruptions, please.

Sir Muhammad Yakub: Do you mean sub-clause (1) or (2)?

Diwan Bahadur T. Rangachariar: The last clause in sub-clause (1).

Sir Muhammad Yakub:

"and, thereupon, the Code of Criminal Procedure, 1898, shall, while such notification remains in force, be deemed to be amended accordingly."

Of course the amendment has been made by this Legislature. It is this House which is now making the amendment. The function of bringing that amendment into force is left to the Local Government and that is not delegating the legislation altogether. There are no other particular clauses to which objections have been raised. My esteemed friend, Mr. Rangachariar, this morning contended that a measure like this is intended to curtail legitimate political movements and legitimate rights of the people. I would ask my Honourable friend that during the time when the Ordinances were in force—and of course the Ordinances were more rigorous than this measure—how many meetings did he himself call in Madras and how many meetings did he preside over and was he ever stopped from holding any meeting?

Diwan Bahadur T. Rangachariar: I may mention that the Chief Presidency Magistrate issues notification after notification prohibiting public meetings.

Sir Muhammad Yakub: Quite right. That is not under the provisions of this Bill. That was under section 144 of the Criminal Procedure Code which is a very old enactment: when there is a danger to the peace in a certain place, the District Magistrate can do so; but not under the Ordinances or under this Bill. Then, it was only the other day, that the Liberals were holding their Conference at Bombay. So, I say, that legitimate political movements can never be stopped by this enactment.

Of course this enactment is intended to meet an emergency and, for that purpose, it has got to be a bit harder than usual.

Diwan Bahadur T. Rangachariar: If my Honourable friend will extend to me the courtesy of allowing me to put him a question, may I ask him, does he think he is at liberty today to call a meeting, if he thinks the police have committed excesses in his district, to condemn those excesses?

Sir Muhammad Yakub: Most certainly, meetings may be called in which excesses by the police may be condemned. Not only that; if my Honourable friend has read the newspaper reports of Delhi, he will find that complaints have been filed against the excesses of police officers and that those complaints are being investigated by the Government even today.

Sir Hari Singh Gour: Are complaints public meetings?

Sir Muhammad Yakub: Therefore, for these reasons I commend this Bill, as it has emerged from the Select Committee, for the consideration of the House. I do not think that any legitimate purpose would be served by re-circulating this Bill or by re-committing the Bill to the Select Committee. The Select Committee has done what it could have done; and, before I conclude, I will only remark that the proceedings of the Select Committee were carried on in a very honest and straightforward manner. There were no two parties in the Select Committee. Had it not been for the conciliatory spirit of the official members in the Select Committee, we would not have been able to carry those amendments, and important amendments, which were carried after the walk out of some Honourable Members on the other side.

Mr. S. C. Mitra: There were only two official members.

Sir Muhammad Yakub: And those official members had to put in a note of dissent. With these remarks, I support the motion that the Bill be taken into consideration.

Some Honourable Members: The question may now be put.

Mr. Gaya Prasad Singh: As a member of the Select Committee, and as one of those who deemed it their duty to cease to participate in the deliberations of the Committee at a certain stage, I should like to offer a few observations on the Bill. Before doing so, I must acknowledge with thanks the very studied restraint, the suavity of manner, and the unfailing smile which lends to disarm criticism, of my Honourable friend, the Home Member, with which he referred to that unfortunate episode in the Select Committee which led some of us to leave the meeting. My Honourable friend said that if at any stage of the discussions on the Bill personal references are made, he will be prepared to meet them. I for my part give him the assurance that so far as I am concerned, I am not going to rake up the unpleasant episode but if any official Member or any satellite of theirs rakes up anything, I shall be prepared to meet the charges that may be levelled against us. My Honourable friends, Mr. Yamin Khan

[Mr. Gaya Prasad Singh:] and Sir Muhammad Yakub, have indulged in the sort of speech which is quite habitual with them. My Honourable friend, Mr. Yamin Khan, first came into this House as a Nominated Member.

Mr. Muhammad Yamin Khan: I came to this House, long before you came, as an Elected Member.

Mr. Gaya Prasad Singh: My Honourable friend was for some time a Nominated Member of this House; now he has become an Elected Member; but this change of status has not apparently brought about a change in his mental outlook on political questions. So far as my Honourable friend, Sir Muhammad Yakub, is concerned, he has indulged in an epithet

Mr. President (The Honourable Sir Ibrahim Rahimtoola): He has withdrawn it.

Mr. Gaya Prasad Singh: which is very regrettable, and there I leave the matter. They have contended that this Bill, as it has emerged from the Select Committee, is a distinct improvement and very material changes have been made in it which makes it now acceptable to this House. I will only draw the attention of the House to the concluding portion of the Select Committee's report in which they themselves have said this:

"We think that the Bill has not been so altered as to require republication and we recommend that it be passed as now amended."

This admission of theirs clearly shows that the Bill has not been as materially altered as they claim it to have been. It has been stated by Honourable Members on the Treasury Benches and their henchmen on this side of the House that this Bill has been introduced for the purpose of suppressing the civil disobedience movement.

Mr. Muhammad Yamin Khan: May I ask whether the expression "henchmen" is a very suitable word?

Mr. Gaya Prasad Singh: I hold that the word is not unparliamentary, but if my Honourable friend is so fastidious, I will say habitual supporters of the Government. It has been stated that this Bill is being enacted for the purpose of suppressing the civil disobedience movement. I am free to confess in this House that the civil disobedience movement has not been held to be an illegal movement, and under certain circumstances, even justifiable. I will quote an authority, a very high authority, which will satisfy some of my Honourable friends who may have any doubt in the matter. I quote from page 41 (8th edition) of the Law of the Constitution by Mr. Dicey. This is what he says:

"Within the last thirty years, however, there has grown up in England and, indeed, in many other civilised countries, a new doctrine as to lawlessness. This novel phenomenon, which perplexes moralists and statesmen, is that large classes of otherwise respectable persons now hold the belief and act on the conviction that it is not only allowable, but even highly praiseworthy, to break the law of the land if the law breaker is pursuing some end which to him or to her seems to be just and desirable.

This view is not confined to any one class. Many of the English clergy (a class of men well entitled to respect), have themselves shown no great hesitation in thwarting and breaking laws which they held to be opposed to the law of the Church. Passive

resisters do not scruple to resist taxes imposed for some object which they condemn. Conscientious objectors are doing a good deal to render ineffective the vaccination laws. The militant suffragists glorify lawlessness, the nobleness of their aim justifies in their eyes the hopeless and perverse illegality of the means by which they hope to obtain votes for women.

An Honourable Member: What is the conclusion?

Mr. Gaya Prasad Singh: I go further and say that, under certain circumstances, even armed revolt against the tyrannies of the Government has been held to be morally justifiable. I am here merely referring to a psychological phenomenon which is evident not only in England but in many other civilised countries of the world, and India is no exception. Sir, at page 481, this is what Dicey says:

"No sensible man can refuse to admit"—this is his opinion,—"that crisis occasionally, though very rarely, arise, when armed rebellion against unjust and oppressive laws may be morally justifiable."

Sir, in this view, those of our countrymen, who have taken to the civil disobedience movement, are doing nothing which is morally unjustifiable. There is not an element of moral turpitude in it. I may or may not agree with them, I may or may not hold the same views which they hold, but it is dishonest on the part of any Honourable Member to ascribe dishonest motives to those who are resorting to them. Patriotism, after all, is not the monopoly of a particular class. Sir, I may differ from the Congress in many respects; I may differ in many respects from those who are attempting to bring about by that means a change in the system of Government; but one thing must be said to their credit that their patriotism has been tested on the touchstone of sincerity and self-sacrifice. Many of us, who come into this House at the fag end of our other business only to make a few speeches and to go away, are not fit even to untie the shoelaces of those great patriots whose life is a sermon in self-sacrifice and suffering like Mahatma Gandhi and many others. (Applause from the Nationalist Benches.)

It is claimed, Sir, that the provisions of the law, as it exists, is not sufficient to cope with the situation. If this be so, I must in the first place congratulate the Indian National Congress for their success in compelling the Government to bring a drastic legislation of this kind. Either the Congress represents a microscopic minority of the population, as it was said, on a historic occasion, by one of the great Viceroy of India, or it represents the will of the bulk of the people of this country. If it represents only a microscopic minority of the population, this drastic legislation is unnecessary and should not be resorted to at all. If, on the other hand, it is conceded by the Government and by their habitual supporters that the Congress mentality is the mentality of the people at large, that the spirit of the Congress pervades the masses of the people, then, I say, that these drastic provisions will not succeed in killing the rising self-consciousness of the people, or to meet the situation which it is intended to meet.

Now, Sir, I should like to say a few words with regard to some of the provisions of the Bill, and whether actions taken under some of the Ordinances have been justifiable or not. There is one provision in the Bill which empowers the authorities to declare certain associations as

[Mr. Gaya Prasad Singh.]

illegal. Let us for a moment consider whether this power has been properly exercised in the past by the local authorities concerned or not. I have before me a list of Associations which were declared unlawful in Bombay only. This list includes such associations as the following:

Labour Welfare Centre,
Foreign Cloth Boycott and Swadeshi Committee,
Anti-Untouchability Committee,
Prohibition Committee,
Municipal Sub-Committee,
Swadeshi Pracharak Mandal,
Women's Association,
Nationalist Muslim Party,
Nationalist Christian Party.

These are some of the Associations which were declared illegal. (An Honourable Member from the Nationalist Benches: "Shame.")

The Honourable Mr. H. G. Haig: Can you judge them by their names?

Mr. Gaya Prasad Singh: I challenge my friend to produce evidence in support of his contention that, under the garb of these names, they have been doing things which can be regarded as unlawful or illegal. I shall be very happy to revise my opinion if my Honourable friend gets materials from the Bombay Government of the activities of these associations and places them on the floor of the House at a later stage, and then I shall be quite willing to withdraw whatever observations I may have made wrongly in this connection. Hartals have been declared illegal.

Then it is stated that the liberty of the people is being interfered with by the Congress people. Now, I ask, are not the shopkeepers at liberty to close their shops on a particular day if they so desire? If it is open to one man to close his shop, it should be open to quite a number of men to close their shops voluntarily on a particular occasion. If these people have been molested or tyrannised over by the Congress men, then certainly action can be taken against them, and they must be punished. In my own province, in Dinapore town, a number of persons closed their shops in celebration of what is known as the Peshawar Victims Day, and the matter was brought before the Magistrate. The accused were handcuffed, they were tied with ropes, and they were refused bail. (An Honourable Member: "Shame.") That was in February last, and the Magistrate of Dinapore writes on his Order-Sheet, dated 1st February, 1932, as follows:

"This is a typical piece of civil disobedience, and it follows that all shopkeepers who closed their shops and observed Hartal on that day were assisting the operations of the unlawful Congress association and are guilty under section 17 (2) of the Criminal Law (Amendment) Act."

An Honourable Member: Absurd.

Mr. Gaya Prasad Singh: Newspapers have actually been asked to refrain from criticising the actions of the police or of the Government or of its officials. Fathers or guardians have been actually sentenced to

imprisonment, or fine, for not paying the fine imposed upon their sons or wards. District Magistrates have sometimes called upon dealers of foreign cloth and have actually asked them or rather encouraged them to sell foreign cloth under Government protection. If they are being molested or interfered with by the Congress volunteers or anybody else, it is a crime which ought to be punished under the law. Under the provisions of one of these Ordinances which has been enshrined in this Bill, a Magistrate in Bengal actually issued a notice upon a vegetable seller forcing him to sell vegetables for one month in that town. I brought this fact to the notice of my Honourable friend, the Home Member, and he was pleased to promise to write to the Bengal Government on the subject. If I remember aright, that was the gist of his reply. Sir, in Calcutta, notice under the Emergency Powers Ordinance was served on such an eminent lady as Shrimati Urmila Devi, sister of the late Deshbandhu Das, restraining her movements within a limited area surrounding her residence. If I remember aright, that was the text of the notice itself. The Deputy Commissioner of North Calcutta in a meeting of the shopkeepers said that he was empowered under the Ordinance to seal the shops in case they closed them in connection with any hartal. I am giving just a few examples at random to show how the Ordinances, which were enacted in the past, have been actually working in different provinces.

The Honourable Mr. H. G. Haig: Are those powers all reproduced in the Bill as it is before the House?

Mr. Gaya Prasad Singh: My contention is that judging from the way in which your officials have administered the Ordinances, which were promulgated by His Excellency the Governor General, your officials are not fit to exercise that amount of power which you are proposing to give under this Bill. Sir, this is an incident which happened in Gopalganj, Bengal. Srijuts Sudhir Chandra Roy Chaudhury, B.Sc., B.L., and Bhuban Mohan Saha, M.A., B.L., pleaders, were served with notices in February last, under the Emergency Powers Ordinance, directing them not to leave the Gopalganj Town area and take part in any political activities, and to report themselves, in person to the officer in charge, local police station, daily, for a period of one month. Similar notices were served on six other local gentlemen. My Honourable friend, Sir Muhammad Yakub, said that political activities have not been prohibited under the law. The text of the notice itself shows that these respectable persons, educated gentlemen, holding some position in local society, were debarred from participating in any legitimate political activities and their movements were restricted for a considerable time. And then insult was added to injury by asking them to report themselves to the police daily. If they committed any offence, the arm of the law is long enough to catch them and to deal properly with them.

"The District Magistrate of Comilla"

—I am reading out from the *Hindustan Times* dated the 21st January, 1932—

"The District Magistrate here has decided to address meetings of students every evening. To make sure of his audience, the Magistrate has caused notices to be served on the heads of all educational institutions, including the local college, to co-operate with the police for two hours every evening, by sending two representatives of each institution every evening to the police station, for the purpose of identifying the students present at the meetings to be addressed by the Magistrate."

[Mr. Gaya Prasad Singh:]

This is trying to manufacture loyalty by coercion! In Lahore, two notices were served under the Emergency Powers Ordinance on two sisters, Miss Manmohini Zutshi, M.A., ex-President of the Students' Union, and Miss Shyam Zutshi, B.A., asking them not to participate in any procession and meeting, and not to go beyond the limits of the Lahore Municipal area for one month.

This happened in February last.

Then Sir, another incident which happened in the Bengal Presidency was this:

"A Naldanga report says that notices were served on Mr. Surendra Lahiri, a well-known zemindar of the locality, and two other persons, directing them to be present at the station on November 17, when a contingent of soldiers will arrive, and to make all necessary arrangements including arrangements for supply of food for the contingent."

This is from the *Hindustan Times*, dated the 16th November, 1982, that is, today. This is what happened in a college at Lucknow in January last: Students of the Lucknow Christian College went on strike as a protest against a notice served on a professor asking him not to attend classes with khaddar dress.

I do not know whether the authority concerned scented sedition under the folds of khaddar.

In January last, the authorities served a notice on the All-India Spinners' Lucknow Branch Khaddar Depot, under the Emergency Powers Ordinance, not to allow Congressmen to visit the Bhandar.

Another incident which happened in Lucknow in February last was this; and this I take from the *Hindustan Times* of the 14th February:

"Various merchants, including Messrs. Ramrattan Gurprasad Kapoor, Buddhalal Lalimal, Rattansingh and Govardhan Khanna have been called upon to show cause under the Emergency Powers Ordinance why they should not leave Cawnpore or live five miles away within four days."

These are some of the specimens of orders served under the Ordinances which have been promulgated from time to time. In Lucknow what happened in March last was this:

"The Manager of the Charkha Sangha and the Khaddar Bhandar received notices from the District Magistrate to the effect that these institutions should not sell Congress flags to anybody. On representation, the District Magistrate issued another order to the Manager granting him permission to continue selling national flags for the purpose of display in private homes and shops only. But the order further runs:

"You are warned that in case any flag sold by you is used for aggressive demonstrations, there will be a strong presumption that you had your support for such demonstration and that you had laid yourself open to consequent penalty."

I may take some more time, Sir.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): How many instances is the Honourable Member going to give? The Honourable Member should direct his attention to the Bill. His whole speech has been one of instances, without connecting them with the Bill that is now

before the House. He may quote occasionally an instance or two illustrating what is likely to happen if certain provisions of the Bill are accepted by the House. The Honourable Member cannot quote instances which have no bearing on the subject-matter now under consideration of the House.

Mr. Gaya Prasad Singh: If you say, Sir, that instances from the past are not relevant to the present issue, I shall bow to your ruling.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order. The Chair has never said that. The Chair will allow the Honourable Member to quote instances relevant to the provisions embodied in the Bill; pointing out that if the House enacts the measure in its present form, it is liable to such evils as may have happened in the past. In dealing with the different clauses of the Bill, he may quote instances relevant to them. Reading out a series of instances, without in any way attempting to connect them with the Bill, cannot be allowed.

Mr. Gaya Prasad Singh: Then I shall have to enter in some detail into the provisions of the Bill.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): That is the only way in which he can make them relevant.

Mr. Gaya Prasad Singh: Now, Sir, clause 4 of the Bill runs as follows. I will read out the clause and then give instances.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): By all means, but the instances must have a bearing on the provisions of the Bill.

Mr. Gaya Prasad Singh: If there are no instances, I will offer my own comments.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Certainly, you are welcome to do so.

Mr. Gaya Prasad Singh: Clause 4 runs as follows:

"Whoever, with intent to harass any public servant in the discharge of his duties, or to cause him to terminate his services or fail in his duty, refuses to deal with or to let on reasonable rent a house usually let for hire or land not being cultivated land to, or to render any customary service to such public servant or any member of his family on the terms on which such things would be done in the ordinary course or withholds from such person or his family such medical service . . . shall be punished with imprisonment, etc. etc."

My first comment in connection with this clause is that it is too wide and liable to abuse in many cases. The clause says "whoever, with intent to harass any public servant." The word "harass" has not been defined in the first place. In legal phraseology such terms ought to be clearly defined, and the scope of the mischief ought to be limited as far as possible. Then it says "fail in his duty." That is also a wide and comprehensive expression and liable to abuse in more ways than one. Then again "refuses to deal with or to let on reasonable rent a house usually let for hire." Take for instance the case of a money lender. He

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refuses to lend money to a public servant. Then this clause, as it is worded, will compel the *mahajan* to lend money to a Government servant. Will any of my Honourable friends seriously say whether the mischief, which I contemplate, is not inherent in the wording of this clause? Then "house usually let for hire." There may be good reasons why a house usually let for hire is refused to a particular tenant. The tenant may be of a quarrelsome nature, of a boisterous temperament or he may be a bad paymaster. Then, Sir, there are certain sections of the community, for instance the Jains, who would not let out their house to a man who takes animal food, and so on. There might be other considerations which might weigh with a man in refusing to let out a house to a Government servant. Then "land not being cultivated land." You are forcing a man not only to let his house to a public servant, but also compelling him to provide an orchard for vegetables to be grown on it. Surely he does not want this land for the purpose of discharging his official duties. Then "to render any customary service." What is this customary service? If a barber refuses to shave, is he punishable under the provisions of this law?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): How long does the Honourable Member expect to take?

Mr. Gaya Prasad Singh: I will take some considerable time.

Mr. President: The Honourable Sir Brojendra Mitter.

The Honourable Sir Brojendra Mitter (Leader of the House): As regards the business for next week, I propose that we go on with this matter. If there be anything new which I have to mention to the House, you will permit me to state it on Monday.

The Assembly then adjourned till Eleven of the Clock on Monday, the 21st November, 1932.

LEGISLATIVE ASSEMBLY.

Monday, 21st November, 1932.

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

MEMBERS SWORN.

The Honourable Sir George Schuster, K.C.S.I., K.C.M.G., C.B.E., M.C. (Finance Member); and Sir Alan Parsons, Kt., C.I.E., M.L.A. (Finance Secretary).

QUESTIONS AND ANSWERS.

POSITION OF MUSLIMS IN THE CONSTITUTIONAL REFORMS.

1271. ***Mr. M. Maswood Ahmad:** Will Government be pleased to state whether they are aware that while laying before His Majesty's Secretary of State for India, in the 5th Despatch on the Indian Constitutional Reforms, No. 4 of 1919, dated Simla, April 23, 1919, their views upon the proposals for franchise and constituencies and the composition of the reformed legislative bodies, they have said:

(a) In paragraph 19:

"As you are aware, representatives of the Indian National Congress and the All-India Muslim League met at Lucknow in December, 1916, and arrived at an agreement respecting the proportion of seats to be allotted to the Muhammadan members in the various Provincial Legislatures and the Legislative Council."

(b) In paragraph 22:

"If we were writing on a clean slate, we should greatly desire to establish a ratio of Muhammadan seats which would bear a closer relation with their strength as a community, while amply fulfilling our undertakings to safeguard them as a minority."

(c) In paragraph 22 again:

"In the first place, the Muhammadans have been definitely promised some electoral advantage on the ground of their political importance. We should have to measure that advantage and to fulfil that promise."

(d) In paragraph 22 again:

"Past history and the presence of Muhammadan centres count for much."?

The Honourable Sir Brojendra Mitter: Sir, with your permission, I will answer questions Nos. 1271 to 1275 together. Government are aware of the quotations cited by the Honourable Member.

POSITION OF MUSLIMS IN THE CONSTITUTIONAL REFORMS.

†1272. *Mr. M. Maswood Ahmad: Are Government aware that Sir William Vincent has said about the Muslims of Bengal in the same Despatch:

(a) "The Muslims of Eastern Bengal stand in need of protection perhaps more than any other part of their community. They are, as the despatch says, impoverished and backward, and, unless we specially help them, will have little chance in competition with other communities. This was shown in the days before partition when their interests did not secure sufficient bearing. The desire to help the Eastern Bengal Muhammadans was one of the reasons for the partition of Bengal. That the position improved, while the province of Eastern Bengal and Assam lasted, is a well-known fact. The re-partition of 1912 came as a heavy blow to many of them. I doubt, whether in the Lucknow Agreement of December, 1916, their interests were adequately represented".

(b) "I consider that they should get representation in the Bengal Legislative Council in proportion to their population strength".

(c) "I accept the principles laid down in para. 22 of the Despatch. They lead me to conclude that what is wanted is a sliding scale in which the (weightage) given to Muhammadans increases as their numerical weakness does. We have, as the Despatch says, to measure the advantage to be given to them. To do so, some arbitrary assumptions must obviously be made. The fewer and simpler these are, the better. Where the Muhammadans are in a census majority, let them get representation in that proportion".

POSITION OF MUSLIMS IN THE CONSTITUTIONAL REFORMS.

†1273. *Mr. M. Maswood Ahmad: Are Government aware that:

"Lord Minto gave, on behalf of the Government of India, a binding pledge to the Muhammadans which Lord Morley endorsed and Lord Hardinge repeated that their position should be estimated not merely on their numerical strength, but with respect to their political importance?"

POSITION OF MUSLIMS IN THE CONSTITUTIONAL REFORMS.

†1274. *Mr. M. Maswood Ahmad: Are Government aware that the scheme of reforms passed at the 31st Session of the Indian National Congress held at Lucknow on the 29th December, 1916, and adopted by the All-India Muslim League at its meeting on the 31st December, 1916, embodies:

"Provided, further, that no Bill, nor any clause thereof, nor a resolution introduced by non-official members affecting one or the other community, which question is to be determined by the members of that community in the Legislative Council concerned, shall be proceeded with, if three-fourths of the members of that community in the particular Council, Imperial or Provincial, oppose the Bill or any clause thereof or the resolution?"

POSITION OF MUSLIMS IN THE CONSTITUTIONAL REFORMS.

†1275. *Mr. M. Maswood Ahmad: Are Government aware that the scheme of reforms passed at the 31st Session of the Indian National Congress, held at Lucknow on the 29th December, 1916, embodies 50 per cent. for the Muslims in the Punjab Legislative Council by the separate electorate while, by the Premier's decision, Muslims of the Punjab will get less than 50 per cent. seats by the separate electorate?

†For answer to this question, see answer to question No. 1271.

ABSENCE OF STATUTORY MAJORITY FOR MUSLIMS IN THE PUNJAB AND THE BENGAL LEGISLATIVE COUNCILS.

1276. *Mr. M. Maswood Ahmad: Are Government aware:

(a) that in spite of the weightage given to minorities, Hindus in Madras, Central Provinces, United Provinces, Bombay and Bihar and Orissa will be in clear majority; and

(b) that Muslims in the Punjab and Bengal did not get a statutory majority in their Legislative Councils?

The Honourable Sir Brojendra Mitter: I can only refer the Honourable Member to the Communal Decision.

REDUCTION OF THE MAJORITY COMMUNITY TO MINORITY OR EQUALITY IN THE PROVINCIAL LEGISLATIVE COUNCIL.

1277. *Mr. M. Maswood Ahmad: Are Government aware that the Premier definitely promised that the community in majority will not be reduced to minority or equality in the Provincial Legislative Councils?

The Honourable Sir Brojendra Mitter: I have not seen the statement attributed to the Prime Minister.

Mr. M. Maswood Ahmad: Are Government aware of the statement of Mr. Ghuznavi made on the 5th September, in this House, that the Prime Minister did give us that assurance?

The Honourable Sir Brojendra Mitter: At the moment I have not that present to my mind, but if the Honourable Member wants any further information, I shall look up that statement and give further information, if necessary.

Mr. K. Ahmed: Do I understand, Sir, that while speeches are made by the Prime Minister with regard to this Round Table Conference and matters ancillary to it, the Government of India and, particularly, the Honourable the Law Member does not keep himself informed of them?

The Honourable Sir Brojendra Mitter: Will the Honourable Member kindly repeat the question? I really could not follow it.

Mr. K. Ahmed: It is as plain as water. Do I understand that the Honourable the Law Member has not been keeping himself familiar with what took place at the Round Table Conference and with the speeches ancillary to it made by the Prime Minister from time to time?

The Honourable Sir Brojendra Mitter: The Law Member does follow the proceedings of the Round Table Conference just as other Honourable Members do, but he cannot be expected to remember everything taking place there at all times. If, however, any particular point arises, then he can look it up.

Mr. K. Ahmed: There are the particular points raised with regard to these two questions, Nos. 1276 and 1277.

The Honourable Sir Brojendra Mitter: I have said that I shall look it up.

Mr. K. Ahmed: That will be of no use to us and to the Assembly.

PLEDGES GIVEN TO MUSLIMS.

1278. ***Mr. M. Maswood Ahmad:** Do Government propose to draw the attention of the Premier and the authorities concerned to the binding pledges and to the questions raised in the preceding seven questions?

The Honourable Sir Brojendra Mitter: In view of paragraph 4 of the Communal Decision, Government do not propose to take any action.

SEATS ALLOTTED TO NON-MUSLIMS IN THE NORTH-WEST FRONTIER PROVINCE UNDER THE COMMUNAL AWARD.

1279. ***Mr. M. Maswood Ahmad:** (a) Is it a fact that the total population of the North-West Frontier Province is 2,425,076 persons, of which 42,510 are Sikhs, 2,227,303 Muslims and 155,263 general (including Hindus, Buddhists, Zoroastrians, Christians, Jews, etc.)?

(b) Is it a fact that Sikhs are less than 1.8 per cent. in the province, while they will get 6 per cent. seats of the whole House by separate electorates by the Premier's decision which will be about four times of their share on population basis?

(c) If the reply to parts (a) and (b) be in the negative, will Government be pleased to state the correct figures?

(d) Have Mussalmans of any province got seats, by separate electorate, in the same proportion to the population basis as the Sikhs have got in the North-West Frontier Province according to the Premier's decision?

The Honourable Sir Brojendra Mitter: With your permission, Sir, I propose to deal with questions Nos. 1279 to 1281 together.

I am prepared to accept the figures quoted by the Honourable Member as generally correct. As to the rest, I am not in a position to add anything to what is already laid down in the Communal Decision.

SEATS ALLOTTED TO MUSLIMS IN MADRAS UNDER THE COMMUNAL AWARD.

† 1280. ***Mr. M. Maswood Ahmad:** (a) Is it a fact that according to the Premier's decision general seats in the North-West Frontier Province will be 18 per cent. in the whole House of the Provincial Legislature, while the population of the general (leaving Muslims and Sikhs) is less than 6.5 per cent. of the whole population of the Province?

(b) Is it a fact that the general constituency will be separate in which Muslims cannot contest?

(c) Is it a fact that the Muslim population in the Madras Province is more than 7 per cent. while, according to the Premier's decision, Muslims of the Madras Province will get 13.8 per cent. seats in the whole House of the Provincial Legislature?

† For answer to this question, see answer to question No. 1279.

SEATS ALLOTTED TO MUSLIMS IN BIHAR AND ORISSA UNDER THE COMMUNAL AWARD.

† 1281. ***Mr. M. Maswood Ahmad:** (a) Is it a fact that general cum Sikhs are 8.1 per cent. in population in the North-West Frontier Province while they will get, according to the Premier's decision, 24 per cent. seats in the whole House in the Provincial Legislature?

(b) Is it a fact that Muslims in Bihar and Orissa are more than 11 per cent. while they also will get the same 24 per cent. seats in the whole House in their Provincial Legislature?

FRANCHISE FOR MUSLIM LANDHOLDERS IN BIHAR AND ORISSA.

1282. ***Mr. M. Maswood Ahmad:** (a) Are Government aware how many Muslim Landholders have been returned in the Bihar and Orissa Legislative Council through the Landholder's Constituency in the last three Elections after the Reforms of 1920?

(b) Will Government be pleased to state the corresponding figures in connection with part (a)?

(c) Are Government aware that Muslims are petty Landholders in Bihar and Orissa and, unless a low franchise is fixed, it will be difficult for them to be eligible for voting?

(d) Do Government propose to draw the attention of the authorities and to consider how Muslim Landholders can get at least one of the five seats specially reserved for the Landholders of the Bihar and Orissa Province?

The Honourable Sir Brojendra Mitter: (a) None.

(b) It is not quite clear what corresponding figures the Honourable Member wants.

(c) Government are aware of the existence of numerous petty Muslim landholders.

(d) Government do not propose to take the action suggested by the Honourable Member. In this connection I would invite the Honourable Member's attention to paragraph 4 of the Communal Decision.

***Mr. M. Maswood Ahmad:** Is there any difficulty in drawing the attention of the authorities to this fact?

The Honourable Sir Brojendra Mitter: Sir, paragraph 4 of the Communal Decision provides for the communities coming to an agreement, and I would invite the Honourable Member's attention to the terms of that paragraph. It is a matter for the communities now and not for the Government.

***Mr. M. Maswood Ahmad:** I remember that it is said about the Punjab and Bengal in paragraph 18 of the Decision, that the Award will not be open to change, but that for other minor provinces changes will be possible, and that Government have reserved the right for slight variations. Is that or is that not a fact?

The Honourable Sir Brojendra Mitter: If the Honourable Member will read that paragraph carefully, he will see that alterations will be possible provided the communities concerned come to an agreement. So it is a matter for the communities concerned and not a matter for the Government.

† For answer to this question, see answer to question No. 1279.

Mr. K. P. Thampian: May I know, Sir, how the interests of Muslim landholders, as such, are different from those of the Hindu landholders?

Mr. M. Maswood Ahmad: In many respects.

The Honourable Sir Brojendra Mitter: That question might well be addressed to my Honourable friend, Mr. Maswood Ahmad, instead of to me.

Mr. M. Maswood Ahmad: I am ready to explain.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order.

WOMEN LANDHOLDERS IN BIHAR AND ORISSA.

1283. *Mr. M. Maswood Ahmad: (a) Are Government aware that women as well are Landholders in Bihar and Orissa?

(b) Do Government propose to draw the attention of the authorities concerned to keep in view the point of safeguarding the interests of women Landholders while making rules for the Landholders' elections?

The Honourable Sir Brojendra Mitter: (a) and (b). This is a matter for investigation primarily by the local authorities. A copy of the Honourable Member's question will be forwarded to the Government of Bihar and Orissa.

RESERVATION OF SEATS FOR HANDLOOM WEAVERS IN THE LEGISLATURES.

1284. *Mr. M. Maswood Ahmad: (a) Are Government aware that the handloom weavers are a special class of labour in British India and that they are to be found in all the provinces?

(b) Are Government aware that the handloom weaving labour is a special kind of labour which is quite different from other kinds of labour?

(c) Are Government aware that *charkha* yarn is used generally in handlooms only?

(d) Are Government aware that *khaddar* is woven on handlooms by handloom weavers belonging to different communities?

(e) Do Government propose to draw the attention of the authorities concerned to consider the desirability of reserving some seats for handloom weaving labour in Provincial and the Central Legislatures?

The Honourable Sir Brojendra Mitter: (a) No. I understand that while handloom weaving is the sole occupation of considerable numbers, it is also done by persons who have other occupations.

(b) One kind of labour naturally differs from another kind and I am not sure what peculiarities the Honourable Member has in mind.

(c) and (d). Yes.

(e) No.

RESERVATION OF SEATS FOR HANDLOOM WEAVING COTTAGE INDUSTRY IN THE LEGISLATURES.

1285. *Mr. M. Maswood Ahmad: (a) Are Government aware that amongst other industries there is a handloom weaving cottage industry?

(b) Do Government propose to consider and to draw the attention of the authorities to reserve a seat from amongst the industrial seats of the Provincial and Central Legislatures for the handloom weaving cottage industry?

The Honourable Sir Brojendra Mitter: (a) Yes.

(b) No.

RELIEF TO INDIA IN THE INTEREST CHARGES OF WAR CONTRIBUTION.

1286. *Mr. M. Maswood Ahmad: (a) Will Government inform the House of the relief that has accrued or is likely to accrue to India in the interest charges of the War contribution, on account of the recent conversion of the War Loan to $8\frac{1}{2}$ per cent.?

(b) Has there been any communication on the subject of reduction of interest of War contribution between the Government of India and the British Government? Will Government lay on the table the copies of the despatches on this subject?

(c) Has any agreement been reached between the Government of India and His Majesty's Government on the question of repayment of the interest for the period of the Hoover Moratorium? If so, what?

The Honourable Sir George Schuster: These matters are under consideration.

RATE OF INTEREST ON INVESTMENT OF BALANCES IN THE HOME TREASURY.

1287. *Mr. M. Maswood Ahmad: Will Government be pleased to state the rates of interest at which the amount of balances in the Home Treasury in the six months of this year were invested?

The Honourable Sir George Schuster: The average rate of discount at which British Treasury Bills were purchased by the Secretary of State for the investment of balances in the Home Treasury and in the Gold Standard Reserve during the half year ended 30th September, 1952, was 1.024 per cent. per annum, the highest rate being 2.44 per cent. and the lowest 0.75 per cent.

RECOMMENDATIONS OF THE TRIBAL CONTROL AND DEFENCE COMMITTEE.

1288. *Mr. M. Maswood Ahmad: Will Government be pleased to lay on the table the recommendations of the Tribal Control and Defence Committee with a list of recommendations which have been adopted, which have not been adopted and of those which are under consideration?

Mr. H. A. F. Metcalfe: The Government regret that they are not prepared to lay on the table the recommendations of the Tribal Control and Defence Committee nor the lists asked for by the Honourable Member.

Such lists would be meaningless except when read as part of the Committee's Report, which cannot be made public because it contains much information the publication of which would not be in the public interest.

IMPORT AND EXPORT OF PADDY AND RICE TO AND FROM CALCUTTA.

1289. *Mr. M. Maswood Ahmad: (a) Will Government be pleased to state:

- (i) the total quantity and the value of the import and export of paddy and rice to and from Calcutta; and
- (ii) names of ports from which or to which paddy and rice were imported or exported, and the different figures for each port?

(b) If it is not recorded separately, do Government propose to direct to record it separately in the Sea-borne Trade Account?

(c) Are Government aware that paddy is the chief agricultural product of Bengal and Bihar and Orissa?

The Honourable Sir Joseph Bhow: (a) and (b). The Honourable Member is referred to pages 42, 65, 76, 82, 104, 141, 152, 185 and 204 of Volume II of the Annual Statement of the Sea-borne Trade of British India for the fiscal year ending 31st March, 1931, copies of which are in the Library. The Statement for the year ending 31st March, 1932, is in course of preparation and, when available, copies will, as usual, be placed in the Library.

(c) Yes.

Mr. K. Ahmed: Is it not a fact that almost all the points raised in all the questions regarding export and import asked by Mr. Maswood Ahmad could be answered by reference to the volumes of the Sea-borne Trade of India which are available in the Library of the House?

Dr. Ziauddin Ahmad: May I draw the attention to the fact that the reference to the volumes of the Sea-borne Trade of India only means that Members are deprived to put supplementary questions, and this right is taken away from us?

The Honourable Sir Joseph Bhow: My Honourable friend can always give notice of another question framed on the information which will be found available in the Library.

Mr. M. Maswood Ahmad: I know that all this information is available either in the Secretariat Library or in the Assembly Library to the Members, but we want the Honourable Member to give it on the floor of the House so that we may put questions and get all the figures collectively in one place.

The Honourable Sir Joseph Bhow: I have given the Honourable Member the precise references in the Volume so as to facilitate his inquiry.

STANDING CENTRAL ADVISORY COMMITTEE ON AGRICULTURE.

1290. *Mr. M. Maswood Ahmad: (a) Is there any standing Central Advisory Committee on Agriculture?

(b) Will Government be pleased to state the names of the members of the Standing Committee on Agriculture?

Mr. G. S. Bajpai: (a) and (b). There is no Standing Committee of the Indian Legislature to advise exclusively on agricultural questions. Such questions may, however, be referred to the Standing Committee which advises the Education, Health and Lands Department on all subjects other than Haj Pilgrimage and Indians Overseas. A statement showing the names of the members of this Committee is placed on the table.

Names of members of the Standing Advisory Committee attached to the Department of Education, Health and Lands for subjects other than 'Indians Overseas—Emigration' and 'Haj Pilgrimage'.

Chairman.

The Member of the Governor General's Executive Council in charge of the Department of Education, Health and Lands.

Members.

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| 1. The Hon'ble Sir David Devadoss. | } Members of the Council of State. |
| 2. The Hon'ble Saiyid Md. Padshah Sahib Bahadur. | |
| 3. Rai Bahadur L. Brij Kishore. | } Members of the Legislative Assembly. |
| 4. Raja Bahadur G. Krishnamachariar. | |
| 5. Rao Bahadur B. L. Patil. | |

Mr. M. Maswood Ahmad: Are Government aware that India is an agricultural country and, therefore, a Special Committee for agriculture is required to protect the rights of the poor agriculturists?

Mr. G. S. Bajpai: That is a simple fact and is obvious even to Government.

Dr. Ziauddin Ahmad: Did this Committee ever meet in the year 1932?

Mr. G. S. Bajpai: The year 1932 is not over yet, Sir.

Dr. Ziauddin Ahmad: Did the Committee ever meet in the year 1931-32 from April 1931 to March 1932?

Mr. G. S. Bajpai: I would like to have notice of that question, Sir. I cannot say off-hand.

MOVE OF THE GOVERNMENT OF INDIA OFFICES BETWEEN DELHI AND SIMLA.

1291. *Mr. M. Maswood Ahmad: (a) Is it a fact that, owing mainly to the shortage of water supply in New Delhi, it has not been found possible to arrive at any final decision in the matter of the move of the Government of India offices from Delhi to Simla?

(b) Will Government be pleased to state what will be the cost for improving the water supply to remove the trouble?

(c) What will be the annual saving if the recommendation of the Committee in the matter of the move of the Government of India offices be accepted?

The Honourable Sir George Schuster: (a) Yes.

(b) A schema is under consideration for increasing the water supply by instalments in accordance with the probable growth of population in New and Old Delhi. Government have not yet decided how many instalments of the scheme they should undertake meantime nor whether funds will be available next year to initiate the extension.

(c) If the General Purposes Committee's main recommendation that Departments should be left in Delhi all the year round were adopted, the direct saving would be nearly 9½ lakhs, fully half of which would be at the expense of the North Western Railway. This direct saving would be counterbalanced to a considerable extent by the extra capital expenditure needed to make New Delhi habitable by a much larger population all the year round.

Mr. S. G. Jog: How long will it take to develop the scheme?

The Honourable Sir George Schuster: The Honourable Member will see from the wording of my answer that there are various possible schemes. The schemes may vary according to the instalments by which they are undertaken and according to the estimate of what the growth of population is that has to be allowed for. I cannot answer the Honourable Member's question in reference to a particular scheme, because various alternative schemes are under consideration and Government have not yet decided what would be the best scheme to adopt.

Mr. M. Maswood Ahmad: Do Government propose to stop the wastage of water in New Delhi which is very frequent by putting meters in quarters and other places and stopping the fountains and thereby increase the water supply in Old Delhi?

The Honourable Sir George Schuster: Government are considering schemes for metering the supply of water in the areas in which water is now being wasted.

† 1292. *

SHORTAGE OF WATER SUPPLY IN OLD DELHI.

1293. ***Mr. M. Maswood Ahmad:** (a) Are Government aware of the troubles in Old Delhi due to the shortage of water supply?

(b) Will Government be pleased to state the detailed schemes if any, under consideration, for removing the above-mentioned troubles?

Mr. G. S. Bajpai: (a) and (b). Government received some complaints with regard to the shortage of water supply in Delhi during the last summer. A scheme for the improvement of water supply has been prepared and is under consideration.

† This question was withdrawn by the questioner.

INSTALLATION OF WATER METERS IN GOVERNMENT QUARTERS IN NEW DELHI.

1294. ***Mr. M. Maswood Ahmad:** (a) Are Government aware of the waste of water in the quarters of New Delhi?

(b) Have meters been fixed in the water supply pipes in the quarters in New Delhi?

(c) Will Government be pleased to state the scheme, if any, under consideration, to stop the waste of water in New Delhi?

Mr. G. S. Bajpai: (a), (b) and (c). Government understand that wastage takes place mainly in clerks' quarters which are not fitted with meters, and proposals for making good this defect are under consideration.

NUMBER OF APPEALS TO THE PRIVY COUNCIL.

1295. ***Mr. Bhuput Singh** (on behalf of Pandit Ram Krishna Jha): Will Government be pleased to state:

(a) the number of appeals from decrees and from orders of each of the High Courts and Judicial Commissioner's Court, and Chief Courts in India to the Privy Council during each of the years 1925-1932;

(b) the number of such appeals as aforesaid (from each of the aforesaid courts) allowed by the Privy Council during each of the years 1925 to March, 1932; and

(c) in how many cases since 1925 has the Privy Council made observations regarding the delay in the disposal of cases in each of the High Courts or Courts subordinate thereto?

The Honourable Mr. H. G. Haig: I have called for the information and will communicate it to the House in due course.

RECRUITMENT OF THE PROVINCIAL PEOPLE TO THE INDIAN SERVICE IN THE PUBLIC WORKS DEPARTMENT.

1296. ***Mr. M. Maswood Ahmad** (on behalf of Seth Haji Abdoola Haroon): (a) Will Government be pleased to state whether it is a fact that an order has recently been issued by the Government of India, stating therein that recruitment of the provincial people to the Indian Service in the Public Works Department will be stopped until the rules for Class One Service are promulgated?

(b) Are Government aware that this sort of promulgation has created resentment among the Provincial Service?

(c) Have Government considered the question whether it is advisable to cancel the above order and promulgate orders to the effect that, pending the promulgation rules, recruitment be continued as heretofore?

The Honourable Sir Frank Noyce: (a), (b) and (c). Government have not issued any order of the nature mentioned, but they have decided, with the approval of the Secretary of State, to suspend further recruitment to the Indian Service of Engineers either by promotion from Provincial Engineering Services or by open competition pending a decision on the recommendation of the Services Sub-Committee of the Indian Round Table Conference that the Irrigation Branch of the Service should be provincialised.

FORMATION OF PORT HAJ COMMITTEE.

1297. *Seth Haji Abdoola Haroon: (a) Will Government be pleased to state whether the formation of Port Haj Committees at the various centres, according to the new Act passed on the 16th September, 1932, on the floor of the House, is arranged to come into force before the commencement of the ensuing Haj season?

(b) If the reply to part (a) above be in the negative, are Government prepared to issue orders to the authorities concerned to constitute the said Committees before the ensuing Haj season, which commences in January?

Mr. G. S. Bajpai: (a) and (b). The Governments of Bombay and Bengal have been requested to make every effort to set up the Committees at Bombay, Karachi and Calcutta, if possible, before the commencement of the ensuing Haj season.

INVESTIGATING INSPECTORS ATTACHED TO THE OFFICE OF THE POSTMASTER GENERAL, BOMBAY.

1298. *Mr. S. G. Jog (on behalf of Sardar G. N. Mujumdar): With reference to the reply given on the 6th September, 1932, to my starred question No. 64, will Government be pleased to state:

(a) whether there were distinct cadres, one for clerks working in the office of the late Deputy Postmaster-General, Railway Mail Service, Western Circle, and the other for sorters working in the Divisions of the Circle;

(b) whether the selection grade posts in the said Circle office were meant only for the clerks working in that office;

(c) whether Inspectors attached to that office were merely attached officers and appointments to those posts were meant only for men in the Divisions and the clerks of the Circle office had no claim over them;

(d) whether not less than 18 clerks, originally recruited for the Circle office, were appointed as Inspectors and that this was pointed out to the Director-General, Posts and Telegraphs, by the All-India (including Burma) Postal and Railway Mail Service Union; and

(e) if the replies to parts (a) to (d) above be in the affirmative, why Messrs. S. V. Panwalkar and P. R. Gokhale were allowed to qualify themselves for the posts of Inspectors, Railway Mail Service, when they were originally recruited as clerks for the Circle office and the posts were meant for men in the Divisions?

Mr. T. Ryan: (a) Yes.

(b) Yes, except the posts of Inspectors attached to the Circle Office which belonged to the Inspector's cadre.

(c) The reply to the first part of the question is in the affirmative. As regards the last part, appointments to the cadre of Inspectors, R. M. S., were made from clerks, whether belonging to the Divisions or to the Circle Office, who had passed the qualifying examination for such posts.

(d) Government have no information nor is any reference on this subject, from the All-India including Burma Postal and R. M. S. Union, traceable.

(e) Does not arise in view of the replies given to parts (c) and (d) above.

RETRENCHMENT IN THE OFFICE OF THE HIGH COMMISSIONER FOR INDIA.

1299. *Mr. Bhupat Sing: Will Government be pleased to state:

(a) whether retrenchment has recently taken place in the office of the Indian High Commissioner in London;

(b) if so, the nature of such retrenchment whether it is by reduction of pay or by complete discharge;

(c) if by reduction of pay, the proportion of such reduction in the salary;

(d) if by complete discharge, the number of men altogether discharged specifying their nationalities;

(e) how many hands there were in all in the office before the discharge;

(f) the reason or reasons for which the retrenchment operations have been undertaken; and

(g) whether the salaries and emoluments of the High Commissioner and his immediate subordinates have been affected for the sake of retrenchment in his office?

The Honourable Sir Joseph Bore: The information is being collected and, when complete, will be laid down on the table.

Mr. Lalchand Navarai: Is there any truth in the statement that we have been reading in the papers that the Secretary of State has announced that there will be a retrenchment in the pay and salaries of the Imperial Services in India?

The Honourable Mr. H. G. Haig: The Honourable Member is possibly referring to proposals for considering whether the pay of the future recruits to the All-India Services should be modified or not. That matter is, at the moment, under consideration.

Mr. M. Maswood Ahmad: Will the Honourable Member be pleased to supply this House with the information as to how many Indians with the Communities they belong to and Europeans there are in that staff as a whole?

The Honourable Sir Joseph Bore: I do not know to what question my Honourable friend is referring?

Mr. M. Maswood Ahmad: It relates to question No. 1299 about which the Honourable Member is going to lay the information on the table.

The Honourable Sir Joseph Bore: I will see if that information is readily available and, if it is, I shall incorporate it in the reply.

Mr. S. G. Jog: Are Indians given any preference for the clerkship in the office of the High Commissioner for India?

The Honourable Sir Joseph Bore: I must have notice of that question.

ARRIVAL AT MATIABURJ, CALCUTTA, OF REPATRIATED INDIANS FROM SOUTH AFRICA.

1300. *Mr. Bhuput Sing: Will Government be pleased to state:

- (a) whether they have information that a large number of repatriated Indians from South Africa have recently been landed in the suburbs of Calcutta;
- (b) if the answer to part (a) be in the affirmative, whether they are aware that they are homeless and workless;
- (c) whether they are aware that most of them have got families and children with them;
- (d) whether they are aware that some gentlemen have been trying to save them from starvation by begging subscriptions from public men of Calcutta;
- (e) whether they are aware that only recently they wanted to march in procession to the Writers' Buildings to lay their present troubles and grievances before the authorities;
- (f) whether they are aware of the letter which Sir Deva Prasad Sarbadhikary of Calcutta has recently contributed to the press detailing the troubles and grievances of the repatriated Indians landed in Calcutta and whether they are aware that it has become a problem with the citizens of Calcutta; and
- (g) what steps they have already taken or propose to take to ameliorate the miseries of the repatriated persons forthwith?

Mr. G. S. Bajpai: The Honourable Member is referred to the answer given by me on the 16th instant to Mr. Sukhraj Roy's question No. 1286 and to the supplementary questions arising out of it.

COMMISSIONED OFFICERS OF THE INDIAN MEDICAL DEPARTMENT.

1301. *Mr. B. N. Misra: Are Government aware that the figure 1½ per cent. of Subedar-Majors of the Indian Medical Department referred to in the answer to question 150 (b) made by Mr. G. R. F. Tottenham on the 30th September, 1932, is lower than that of the strength (7 per cent.) of the commissioned ranks in the Indian Army? Are Government taking any action to increase the strength of Commissioned Officers of the Indian Medical Department?

Mr. G. R. F. Tottenham: By the term 'Commissioned officers' I have been unable to discover whether the Honourable Member is referring to King's Commissioned officers or Viceroy's Commissioned officers or only to officers of the rank of Subedar Major.

The proportion of Subedar Majors to other Viceroy's Commissioned officers varies in different branches of the Army and it is not proposed to increase the proportion in the Indian Medical Department.

NON-RECRUITMENT OF MILITARY SUB-ASSISTANT SURGEONS HOLDING THE RANK OF SUBEDAR-MAJOR.

1302. *Mr. B. N. Misra: (a) Is it a fact that the four Sub-Assistant Surgeons referred to in the answer to unstarred question No. 152 (a) made by Mr. G. R. F. Tottenham on the 30th September, 1932, have completed

50 years service and, if retrenched, are, under para 205, Pension Regulations for the Army in India, entitled to double the rate of ordinary pension admissible? If so, have Government considered the question of retrenching these Sub-Assistant Surgeons? If not, why not?

(b) Are Government aware of the hardships which the senior Subedars are undergoing due to block in promotion on account of these Sub-Assistant Surgeons not having been retrenched?

(c) Have Government considered whether there will be considerable saving to Government by retiring these four Sub-Assistant Surgeons?

(d) Are Government prepared to consider the point referred to in the reply to question No. 152 (b) made by Mr. G. R. F. Tottenham when the financial stringency is over?

Mr. G. R. F. Tottenham: (a) Yes. One of the four Sub-Assistant Surgeons who has earned the double rate of pension is being retrenched. The Honourable Member's suggestion that the other three should also be retrenched has been considered, but it would be uneconomical to accept it. In the ordinary course these officers have to hold the Honorary King's Commissions for three years before being eligible for the double rate of pension, but if they are compulsorily retired before the three years elapse they get the double rate automatically. None of them has yet served for three years in that rank and, therefore, to retrench them would involve unnecessary extra expenditure.

(b) The lower ranks are not suffering any greater hardship than would have been the case if no retrenchment had been necessary at all.

(c) No, Sir. On the contrary, as explained in the answer to part (a), some extra expenditure would be involved.

(d) The matter will be reconsidered when financial circumstances permit.

COMMUNITIES OF RETRENCHED MILITARY SUB-ASSISTANT SURGEONS.

1303. *Mr. B. N. Misra: (a) With reference to unstarred question No. 158, dated the 30th September, 1932, replied to by Mr. G. R. F. Tottenham, will Government please state why 29 junior Sub-Assistant Surgeons drawing less pay were retrenched when there were a few seniors drawing more pay?

(b) Are Government aware of the hardships of the retrenched junior Military Sub-Assistant Surgeons? If so, are Government prepared to re-engage the retrenched junior Sub-Assistant Surgeons whenever this Department requires the services of the members of the Indian Medical Department?

Mr. G. R. F. Tottenham: (a) The selection of senior men for retrenchment does not necessarily produce greater savings than the selection of junior men in a service like the Indian Medical Department, because if senior men are retrenched junior men are promoted in their place and the pay saved is that of the junior grade men. The 29 junior men retrenched were selected with due regard to the principle laid down by Government to govern the order of retrenchment.

(b) Government are fully aware of the hardships of all retrenched personnel, whether junior or senior. They are prepared to re-employ retrenched Sub-Assistant Surgeons when vacancies occur, giving preference to those who have joined the Reserve of Sub-Assistant Surgeons.

MILITARY SUB-ASSISTANT SURGEONS PROMOTED TO THE RANK OF SUBEDAR-MAJOR AND HONORARY KING'S COMMISSIONS.

1304. *Mr. B. N. Misra: Is it a fact that the Government's declared policy is to protect the rights of minority communities in all the services? If so, are Government prepared to take action to see that the ratio between the various communities represented by the present number among the Military Sub-Assistant Surgeons promoted to the rank of Subedar-Major and Honorary King's Commissions is maintained to accord with the Government's declared policy?

Mr. G. R. F. Tottenham: Government's policy is to prevent the preponderance of any one community in the matter of recruitment for the public services; but, as has frequently been pointed out in this House, claims to promotion are determined without regard to communal considerations.

MILITARY ASSISTANT SURGEONS AND SUB-ASSISTANT SURGEONS.

1305. *Mr. B. N. Misra: Is it a fact that the Military Assistant Surgeons and Sub-Assistant Surgeons are attached to the Medical Store Depot and a Military Assistant Surgeon is placed in charge of the Depot in the absence of the Officer-in-charge on leave or on sick list? If so, is the Military Sub-Assistant Surgeon attached there placed in Sub-Medical charge of that unit during the absence of the Officer-in-charge? If so, does he get any allowance for the extra work done by him?

Mr. G. R. F. Tottenham: Normally the staff of Medical Store Depot includes an Indian Medical Service or Royal Army Medical Corps officer in charge, a military Assistant Surgeon, and a Sub-Assistant Surgeon. When the Officer-in-charge is absent for short periods the Assistant Surgeon usually holds charge of the Depot and in addition continues to perform his own duties. During this period he receives an allowance. No allowance is granted to the Sub-Assistant Surgeon as there is no addition to his duties or responsibilities.

GOVERNMENT'S ATTITUDE TOWARDS ANTI-UNTOUCHABILITY PROPAGANDA STARTED BY MR. GANDHI.

1306. *Pandit Satyendra Nath Sen: With reference to the statement made by the Honourable the Home Member (in reply to my supplementary question on the short notice question asked by Mr. B. Das on the 7th November, 1932) that Government do not desire to take any active part in the anti-untouchability propaganda started by Mr. Gandhi, are Government prepared to issue a communiqué entirely dissociating themselves from the movement?

The Honourable Mr. H. G. Haig: Government see no necessity for the issue of any communiqué.

Pandit Satyendra Nath Sen: Do Government realise that their reticence has been and will be interpreted as a partiality for Mr. Gandhi's movement?

The Honourable Mr. H. G. Haig: I do not think that that conclusion can legitimately arise. It must be well known that in all matters of religious controversy, the Government maintain an attitude of neutrality.

Pandit Satyendra Nath Sen: Is it an act of neutrality for Government to identify themselves with this movement indirectly?

The Honourable Mr. H. G. Haig: I cannot admit that Government are identifying themselves with the movement either directly or indirectly.

Pandit Satyendra Nath Sen: Has the attention of the Government been drawn to an article which appeared in the *Hindustan Times* under the caption "Lord Willingdon's friendly act", in which they take this attitude of Government as an assistance to the cause of national development as they describe it.

The Honourable Mr. H. G. Haig: No, Sir. I do not think that the removal of a certain accidental impediment can be taken as an act of positive assistance.

Pandit Satyendra Nath Sen: Are Government prepared to extend similar facilities and protection to the Sanatanists in their fight against the reformers?

The Honourable Mr. H. G. Haig: In what respect does the Honourable Member suggest that similar action is required on the part of Government with regard to the Sanatanists?

Pandit Satyendra Nath Sen: In their fight against Satyagraha and forcible temple entry.

The Honourable Mr. H. G. Haig: The Honourable Member does not suggest that any action taken by Government has in any way impeded the Sanatanists.

DISCHARGE OF OFFICE STAFF OF THE CAWNPORE CENTRAL STATION, EAST INDIAN RAILWAY.

1307. *Mr. Amar Nath Dutt: (a) Is it a fact that the case of one of the office staff of Cawnpore Central Station, East Indian Railway, was rejected by the Railway Enquiry Committee in applying the rule of superannuation, which was discussed among administrative cases on the 18th November, 1931? If so, on what grounds? Was it on the principle of seniority of service or seniority of age or any other principle?

(b) Is it a fact that several officers, senior both in service and age, were retained till long after the discharge of the aforesaid office staff of the Cawnpore Central Station, East Indian Railway? If so, on what principle?

(c) Did the Railway Board select 68 cases for re-examination and not the one mentioned above? If so, what are the reasons? What was the principle underlying the non-examination?

Mr. P. R. Rau: (a) Government are not in a position to know the reasons that led the Court of Enquiry to reject any case.

(b) Government have no information.

assessed to the different nations who are Members of the League of Nations.

Mr. Lalchand Navalrai: What has been the result of the pressure which the delegates exerted with regard to this subject?

The Honourable Sir Brojendra Mitter: There has been an increase in the number of Indians employed in the Secretariat.

Mr. Lalchand Navalrai: Is it substantial?

The Honourable Sir Brojendra Mitter: That is a matter of opinion.

Mr. Lalchand Navalrai: Will the Honourable Member please say how much increase there has been within the last two years?

The Honourable Sir Brojendra Mitter: I think there is a question following when I shall give the necessary answer.

AMOUNTS PAID BY INDIA AND ITALY AS CONTRIBUTIONS TO THE LEAGUE OF NATIONS.

1311. ***Mr. Amar Nath Dutt:** Will Government be pleased to state what is the amount which has been paid by India up till now to the League of Nations since her original entry? Is it less than what Italy contributes? If so, by how much?

The Honourable Sir Brojendra Mitter: A statement is laid on the table.

Statement showing the amounts paid by India and Italy (in Gold Francs) to the League of Nations.

Year.	India.	Italy.
1919	293,615	293,615
1920	523,000	523,000
1921	1,041,666	1,041,666
1922	1,011,335	1,011,335
1923	1,767,773.28	1,658,987.23
1924	1,620,371.61	1,520,656.43
1925	1,453,998.18	1,473,231.48
1926	1,370,454.06	1,468,343.61
1927	1,260,713.58	1,360,006.15
1928	1,297,730.93	1,399,667.61
1929	1,427,175.03	1,533,736.87
1930	1,532,865.20	1,646,976.34
1931	1,705,811.54	1,832,276.03
1932	1,834,588.83	1,970,251.69

NUMBER OF INDIANS APPOINTED TO THE LEAGUE OF NATIONS SECRETARIAT.

1312. ***Mr. Amar Nath Dutt:** Will Government be pleased to state the number of Indians who have been appointed in the League of Nations Secretariat since her original entry? What is the total strength of the employees in the League's Secretariat?

The Honourable Sir Brojendra Mitter: The total number of Indians who have been appointed to posts in the League of Nations Secretariat including the International Labour Office since the inception of the League is 10. As regards the second part the Government have no information.

Mr. Amar Nath Dutt: Will the Government of India collect information about the second part of the question and supply the House with the information?

The Honourable Sir Brojendra Mitter: I will try. But I do not expect anything will come out of it. The question is, what is the total strength of the employees in the League's Secretariat? Whether we shall get the information or not, I cannot say.

STATUS OF INDIA IN THE LEAGUE OF NATIONS.

1313. ***Mr. Amar Nath Dutt:** Will Government be pleased to state whether India enjoys the same status and privileges as the other *independent signatories* of the League of Nations in regard to their representation in the League's Council, Assembly and their sub-committees?

The Honourable Sir Brojendra Mitter: The Honourable Member is referred to Articles 3 and 4 of the Covenant from which he will observe that all members of the League are equally represented on the Assembly, and that all members who are not permanent members of the Council are equally eligible for election to the Council. In connection with his reference to "the other independent signatories" he is referred to the reply to question No. 100 asked on the 3rd February, 1932.

Dr. Ziauddin Ahmad: Is the contribution by the Government of India subject to the approval of the Assembly?

The Honourable Sir Brojendra Mitter: No, Sir. It is the League Council which fixes the amount according to a principle which it has laid down.

Dr. Ziauddin Ahmad: Is it a votable item?

The Honourable Sir Brojendra Mitter: I think it is a votable demand.

Dr. Ziauddin Ahmad: We will remember this point when it comes up for discussion in the Budget Debate. (Laughter.)

COMMISSIONS APPOINTED BY THE LEAGUE OF NATIONS TO REPORT ON THE EDUCATIONAL PROBLEMS IN INDIA.

1314. ***Mr. Amar Nath Dutt:** (a) Will Government be pleased to state whether the League of Nations has taken any steps to advance the cause of education in India, both rural and urban?

- (b) Is China an arrear member of the League?
- (c) Is it a fact that the League of Nations sent some educational experts to China to report about her educational problems?
- (d) If the replies to parts (b) and (c) above are in the affirmative, will Government be pleased to state how many such Commissions, if any, have been appointed by the League to report about the educational problems of India? If none, why?

The Honourable Sir Brojendra Mitter: (a) No.

(b) and (c). Yes.

(d) None. The Government of India must dissociate themselves from the suggestion, which the Honourable Member apparently desires to convey, to the effect that the League, having sent an educational mission to China, a country which is in arrears with her contributions, should *a fortiori* have sent educational missions to India, a country which is not in arrears with her contributions. It is no part of the League's functions to confer benefits on individual members.

STUDY AND REPORT ON THE ECONOMIC AND HYGIENIC PROBLEMS OF INDIA
BY THE LEAGUE OF NATIONS.

1315. ***Mr. Amar Nath Dutt:** (a) Will Government be pleased to state with names how many experts, if any, have been deputed by the League of Nations to study and report on the economic and hygienic problems of India?

(b) Who has borne their expenses?

(c) What places have they visited?

(d) What steps, if any, have Government taken with regard to their recommendations?

(e) Were there any continental experts among them? If none, why?

The Honourable Sir Brojendra Mitter: (a), (c) and (e). A statement is laid on the table containing the desired information in respect of the Malaria Commission of 1929 which is the only case in point.

(b) The League of Nations.

(d) The Commission submitted a report to the League of Nations, copies of which were received by the Government of India and circulated to Local Governments and Administrations to whom it was left to take such action as they might consider necessary.

Statement relating to the Malaria Commission.

This Commission was invited by the Government of India and comprised six experts—five Europeans and one American. It visited India in 1929. The names of the Members of the Commission were:

1. Dr. W. Schuffner, Director of the Section of Tropical Hygiene of the Royal Colonial Institute, Amsterdam and Professor at the University of Amsterdam.

2. Dr. N. H. Swellengrebel, Chief of Laboratory of the Section of Tropical Hygiene of the Royal Colonial Institute, Amsterdam, and Professor at the University of Amsterdam.

3. Dr. M. Ciuca, Professor at the Faculty of Medicine in the University of Jassy, Roumania, Secretary of the Malaria Commission.

4. Surgeon Louis Williams, Head of the Anti-Malaria, United States, Public Health Service, Richmond, Virginia, United States of America.

5. Dr. S. de Buen, Professor of Parasitology, Institute of Health Madrid.

6. Medecin Commandant M. Peltier, Professor of Social Hygiene, School of Sanitary Service for Colonial Troops, Marseilles.

The Commission visited the following places:

Bombay, Karnal, Lahore, Lahore Cantonment, Khanki, Chankanwadi Reclamation Farm and neighbouring villages, Aik Nallah, Sambrial, Mir Alim Upper Chenab Canal, Lower Chenab Canal, Kathala, Gujranwala, Kasauli, Simla, Delhi, New Delhi and rural areas, Agra, Saharanpur, Kathgodam, the Terai and Bhabar, Banbasa, Lucknow, Moghul Serai, Calcutta where visits were paid to Co-operative Anti-Malarial Societies, Sonarpur area, Salt Water Lake area, Buderhati and Tarpassa. From Calcutta the Commission proceeded to Singbhum area, Dangoaposi, Bara Janda, Naomundi, Jessor, Birnagar, Berhampur, Murshidabad, Jiaganj, Bhagwangola, Krishnagar and surrounding villages, Silliguri and the Terai, Darjeeling, Phulbarighat, Sylee, Tea Garden at Menglass Gauhati, Dudnai area, Mariana, Jorhat, Toklai, Melling Tea Garden, Kotalguri Tea Garden, Naganijan Tea Garden, Shillong, Cachar, Rangoon, Mandalay and surrounding villages, Maymyo, Sakantha, Hsipow, Lashio Madaya, Vizagapatam, Ravajada, Parvatipurram, Satikona, Salur and Koraput, Waltair, Madras including Ennore, Errode, Coonoor, Ootacamund, Nadvattam, Mysore and finally returned to Bombay.

FACILITIES OFFERED TO INDIAN STUDENTS IN EUROPEAN COUNTRIES.

1316. ***Mr. Amar Nath Dutt:** (a) Is it a fact that France, Germany, Czechoslovakia and other continental nations offer free tuitions, free lodging and boarding and, sometimes, stipends and scholarships to educate the Indian youths?

(b) If the reply to part (a) above be in the affirmative, will Government be pleased to state whether the United Kingdom offers such facilities to the Indian students? If so, to what extent? If the answer be in the negative, what are the reasons for not offering such facilities to the Indian students as offered by the aforesaid foreign countries?

Mr. G. S. Bajpai: (a) Government are not aware that France or Czechoslovakia and European continental nations generally offer the facilities referred to by the Honourable Member. They have seen newspaper reports to the effect that some such facilities are offered by the India Institute of Die Deutsche Akademie of Munich in Germany.

(b) Government assume that Indian students are eligible for competitive scholarships at educational institutions in the United Kingdom on the same conditions as other students. The last part of the question does not appear to arise.

Mr. K. Ahmed: What is the amount offered at Munich and other places in Germany?

Mr. G. S. Bajpai: The conditions of these stipends, as they are called, vary. Sometimes they do not go beyond the supply of free board, sometimes free board and lodging, and sometimes it is a small pocket allowance; I cannot say how much.

EDUCATIONAL ADVISER IN THE OFFICE OF THE HIGH COMMISSIONER FOR
INDIA, LONDON.

1317. ***Mr. Amar Nath Dutt:** Is it a fact that the inefficiency of the service of the Educational Adviser to the Indian students, in the High Commissioner's Office, London, was condemned by a public resolution of

(c) The 68 cases referred to were not selected by the Railway Board. They were recommended by the Court of Enquiry for re-examination. Government are unaware of the reasons that led the Court of Enquiry to select these out of the large number of cases placed before them.

BENGAL NAGPUR RAILWAY LEVEL CROSSING ON THE BANKURA-TALDANGA ROAD.

1308. *Mr. Amar Nath Dutt: (a) Is it a fact that the Bengal Nagpur Railway line passes through Bankura dividing the town in two parts?

(b) Is there a level crossing on the Railway line on the Bankura-Taldanga Road about a furlong from the Bankura Railway Station? Is the road the only means of communication between Bankura Town and the Thanas of Raipur, Simlapal, Taldanga and parts of Khatra, Onda and Bankura?

(c) Are Government aware that the gate of the level crossing is often closed unnecessarily, causing great hardship to vehicular traffic and people are subjected to blackmailing?

(d) Is it a fact that complaints against the gate-keeper are not inquired into by the Permanent Way Inspector or the Apprentice Permanent Way Inspector?

(e) Are Government aware that inquiry into the complaints of the Permanent Way Inspector are very much delayed by the Railway Police, who harass persons complained against and often terms of compromise are proposed to those complained against?

(f) Have Government considered whether the shunting could be carried on at night instead of during the busiest hours of business, or within the station limits? If so, with what result?

(g) Are Government prepared to put up an automatic gate at the level crossing, like the one at Kanchrapara, Eastern Bengal Railway? If not, why not?

Mr. P. R. Bau: Information is being collected and a reply will be laid on the table in due course.

PREPONDERANCE OF ENGLISH AND FRENCH NATIONALS IN THE LEAGUE OF NATIONS SECRETARIAT.

1309. *Mr. Amar Nath Dutt: Is it a fact that before 1980 the Secretariat of the League of Nations consisted chiefly of English and French officials? Is there any representation of the minor nations in the Secretariat of the League? If so, what is their percentage?

The Honourable Sir Brojendra Mitter: The attention of the Honourable Member is invited to pages 32-41 of the Minutes of the 4th Committee of the Assembly of the League of Nations, 1928, from which he will observe that the Secretary-General of the League stated at that time that he would not, in the future, appoint any members of British or French nationality until the proportion of the nationals of other countries in the League Secretariat had received due and adequate consideration. As regards the representation of minor nations in the League Secretariat I would invite the Honourable Member's attention to pages 1991-2021 of

the Official Journal of the League of Nations, October 1981, which furnishes the names of the staff, with their nationalities, of the League Secretariat and the International Labour Office. From this material the Honourable Member will be able to make the calculations which he desires.

MONOPOLY OF THE LEAGUE OF NATIONS SECRETARIAT BY THE ENGLISH AND THE FRENCH NATIONALS.

1310. *Mr. Amar Nath Dutt: Is it a fact that the German and the Italian nations protested in 1980 against the monopoly of the League's Secretariat by the English and the French? If so, what steps, if any, have been taken by the League against such monopoly?

The Honourable Sir Brojendra Mitter: I would invite the attention of the Honourable Member to the proposals and resolutions contained in the Report of the 4th Committee of the Assembly on the organisation of the Secretariat and the International Labour Office and the Registry of the Permanent Court of International Justice, at pages 79-88 of the Final Report of the Delegates of India to the 11th session of the League Assembly. It will be seen therefrom that certain Governments including the German and Italian Governments did press in 1980 for the employment of nationals of different countries in the League Secretariat and the International Labour Office. The Assembly in 1980 adopted a resolution instructing the Secretary-General to amend the staff Regulations in accordance with the proposals of the 4th Committee.

Mr. S. G. Jog: In view of the substantial contribution from the Government of India towards the expenses of the League of Nations, will the Government of India impress upon them the necessity or advisability of having Indians in the Secretariat staff?

The Honourable Sir Brojendra Mitter: The Indian delegation, for several years in succession, have pressed this point on the Secretary-General.

Mr. S. G. Jog: I asked, did the Government of India impress upon them, I did not ask, whether the delegation impressed upon them?

The Honourable Sir Brojendra Mitter: The Honourable Member ought to realise that the Government of India, as such, are not in direct communication with the League of Nations, but the Indian delegation from year to year pressed this point on the Secretary-General of the League of Nations.

Mr. S. G. Jog: Did the Honourable Member, when he represented this country at the League of Nations last year, make any attempt to impress upon them the necessity?

The Honourable Sir Brojendra Mitter: I not only made an attempt, but was partially successful. (Hear, hear.)

Dr. Ziauddin Ahmad: In view of the fact that India will be the second largest contributor to the League of Nations, did the Honourable Member ever use the argument that the Legislative Assembly would reduce their contribution if sufficient numbers are not employed?

The Honourable Sir Brojendra Mitter: In the first place, India is not the second largest contributor and, in the second place, the Government of India or any other outside body cannot determine the quota which is

the London Branch of the International Students' Service? If so, what steps, if any, have Government taken to remedy the grievance? If none, why?

Mr. G. S. Bajpai: Government have not seen the resolution of the International Students' Service, London Branch, referred to by the Honourable Member, but they have no reason to believe that the services of the officer on the staff of the High Commissioner for India, whose functions correspond to those of an Educational Adviser, are in any way unsatisfactory.

GREAT INDIAN PENINSULA RAILWAY EMPLOYEES MUTUAL BENEFIT SOCIETY.

1318. ***Mr. S. G. Jog:** (a) Will Government be pleased to state whether it is a fact that there is a society called "The Great Indian Peninsula Railway Employees Mutual Benefit Society"?

(b) Is it a fact that the Agent of the Railway is one of the trustees of the society?

(c) Is it a fact that the Railway recovers the monthly subscriptions of its members through the Railway salary bills of the staff?

(d) Are Government aware that there is considerable dissatisfaction amongst the members of the society about the management of its funds and other affairs?

(e) Is it a fact that the funds of the said society amount to nine lakhs of rupees?

(f) Is it a fact that the society has not been registered with Government?

(g) Are Government prepared to bring to the notice of the Agent the desirability of registering the society with Government; if not, why not?

Mr. P. R. Rau: I have called for information and will lay a reply on the table in due course.

TRANSFER OF THE STATISTICAL DEPARTMENT TO THE CONTROL OF THE RESPECTIVE ACCOUNTS DEPARTMENTS OF RAILWAYS.

1319. ***Mr. S. G. Jog:** (a) Will Government be pleased to state whether it is a fact that the Railway Retrenchment Committee had recommended the transfer of the statistical department to the control of the respective accounts departments?

(b) Is it a fact that the said recommendations had been accepted by the Railway Board?

(c) Is it a fact that the statistical department of the Great Indian Peninsula Railway has not yet been transferred to the control of the accounts department of the railway?

(d) Is it a fact that the Agent was asked to arrange for the said transfer in November, 1981?

(e) Is it a fact that the transfer of the department involves the abolition of two posts of officers?

(f) Have the statistical departments of other State Railways been transferred to the control of their respective accounts departments and,

if so, from what dates and whether, in consequence, any post of officers have been abolished; if so, how many, and whether the officers concerned were discharged; if not, why not?

Mr. P. R. Rau: (a) The Railway Retrenchment Sub-Committee recommended the transfer of the compilation of statistics to the Accounts Department.

(b) Not generally. The question is under the consideration of the Railway Board in consultation with Railway Administrations.

(c) Yes.

(d) No.

(e) It has been proposed to abolish the post of Compilation Officer and to redistribute the work in the Agent's Office so that one Senior scale post in that office will be reduced.

(f) On the East Indian and North Western Railways the compilation work of the Statistical Departments has been transferred to the Accounts Department with effect from the 1st October, 1981, and 1st June, 1982, respectively, and the posts of Statistical and Compilation Officers have come to an end. The Statistical Officers of these two Railways have reverted to the departments to which they belonged. The Compilation Officer of the North Western Railway has been transferred to the Accounts Department and that of the East Indian Railway has proceeded on leave preparatory to retirement.

EXPENDITURE INCURRED IN CONNECTION WITH THE RAILWAY COURT OF INQUIRY.

1320. ***Mr. S. G. Jog:** (a) Will Government be pleased to state the total expenditure incurred in connection with the Railway Court of Inquiry appointed in 1981?

(b) What was the total amount of fees paid to the Railway counsel on each railway?

The Honourable Sir Frank Noyce: (a) The cost incurred by Government on the Court was Rs. 46,572.

(b) The total amount of legal charges borne by the Railways was Rs. 62,881 and was divided equally among the four State-managed Railways.

Mr. K. Ahmed: Was it advisable to spend Rs. 62,000 on legal advice at this time of retrenchment and reduction of salaries? If so, was this amount squandered or well-spent from the Government's point of view?

Mr. P. R. Rau: The issues raised were so important that Government considered it necessary to have the Court assisted by the best legal advice.

Dr. Ziauddin Ahmad: Was the result commensurate with the expenditure?

Mr. P. R. Rau: That is a matter of opinion.

Mr. K. Ahmed: Will the Honourable Member kindly explain what justification there is for saying that there were important issues involved on which they had to spend over Rs. 62,000 on legal advice alone?

Mr. P. R. Rau: I must leave it to the House to judge whether the issues raised by the dispute before the Court of Inquiry were important or not.

CALCULATING MACHINES PURCHASED BY THE CHIEF ACCOUNTS OFFICER, GREAT INDIAN PENINSULA RAILWAY.

1321. ***Mr. S. G. Jog:** (a) Will Government be pleased to state the number of calculating machines purchased by the Chief Accounts Officer, Great Indian Peninsula Railway, in connection with the Local Traffic Divisional Scheme in 1930-31?

(b) What was the total amount paid as the cost of the machines?

(c) Is it a fact that since the abandonment of the scheme in 1931 the said machines are lying idle?

(d) Is it a fact that the Local Traffic Divisional Scheme was introduced as an experimental measure; and, if so, why was the expenditure in the purchase of these machines incurred?

Mr. P. R. Rau: (a) Four.

(b) Rs. 7,840.

(c) One machine is being utilised in workshop accounts and the rest are idle for the present. The possibility of utilising them in other offices in the Great Indian Peninsula or other Railways is under investigation.

(d) The divisional traffic scheme was introduced as an experimental measure. The machines were purchased because the cost was expected to be met by savings effected by reductions in the staff, but the expectations could not be realised because the scheme was abandoned as a part of the economy campaign.

Mr. S. G. Jog: What use can be made of these idle machines?

Mr. P. R. Rau: We are trying to find out whether other Railways are in a position to utilise them.

TERMS AND CONDITIONS FOR VOLUNTARY RETIREMENT OF STAFF IN THE ACCOUNTS DEPARTMENT OF THE GREAT INDIAN PENINSULA RAILWAY.

1322. ***Mr. S. G. Jog:** (a) Will Government be pleased to state whether it is a fact that the terms and conditions for voluntary retirement of staff were sanctioned and communicated to the Agent of the Great Indian Peninsula Railway by the Railway Board in March, 1932?

(b) Is it a fact that this concession was applicable to the staff of the Accounts Department, Great Indian Peninsula Railway?

(c) Is it a fact that this concession was not notified for the information of the Great Indian Peninsula Railway Accounts staff up to the 21st July, 1932, and, if so, why?

Mr. P. R. Rau: (a) Yes.

(b) Yes.

(d) Yes. The Chief Accounts Officer is being addressed to ascertain the reason.

GRANT OF ADVANCES TO THE RAILWAY EMPLOYEES FROM THE STATE RAILWAY PROVIDENT FUND.

1323. ***Mr. S. G. Jog:** (a) Will Government be pleased to state when the concession of granting advances to staff from the State Railway Provident Fund under relaxation of rules was sanctioned by Government?

(b) How many applications were forwarded to the Agent, Great Indian Peninsula Railway, up to July, 1932, and how many were rejected by the heads of departments and divisional officers?

(c) How many applications were sanctioned by the Agent during the period, how many of them were from officers, upper subordinates, subordinates and menials, what is the total amount applied for and sanctioned by the Agent for each of the above grades of staff and how many of them were Europeans, Anglo-Indians and Indians?

(d) Is it a fact that in the case of Indian employees, the advances were made equal to about one month's pay, and, in the case of Europeans and Anglo-Indian employees, the same were sanctioned to the extent of two months' pay? If so, why is this distinction made?

Mr. P. R. Rau: The information required is being collected and a statement will be laid on the table of the House in due course.

PROVIDENT FUND BONUS PAID TO THE GREAT INDIAN PENINSULA RAILWAY STAFF.

1324. ***Mr. S. G. Jog:** Will Government be pleased to state the total number of staff who left the Great Indian Peninsula Railway before the completion of five years' service during the year 1931-32, and in how many cases the Provident Fund bonus was paid to such staff by the Agent and how many of them were Indians and non-Indians?

Mr. P. R. Rau: I am informed that the total number of staff who left the Great Indian Peninsula Railway before completion of five years' service during 1931-32 was 81, and that Provident Fund bonus was paid in nine cases. Three of these were Indians and six non-Indians.

PRINTING OF TEN-RUPEE NOTES IN THE CURRENCY NOTE PRESS, NASIK.

1325. ***Mr. Gaya Prasad Singh:** (a) With reference to my starred question No. 6 of the 5th September, 1932, will Government kindly state the total number of forged notes of ten rupees detected by the Currency authorities from the time of the inception of the printing of 10-rupee notes in the Currency Note Press, Nasik, up to the date on which it was decided to change the design; and also the total number of such forged notes detected before the inception of the printing of notes of the particular design in the Currency Note Press?

(b) Will Government kindly state whether the Supervisors, due to whose "insufficient supervision, stupidity and carelessness", the theft of the 10-rupee notes occurred, were removed from service or were merely transferred to some other post? Is it a fact that the Assistant Supervisor, responsible for the theft, was subsequently promoted to the grade of Rs. 200-15-350-20-550 from Rs. 100-10-150-15-300? What is the name of this individual? Is his name Mr. Critchell, and is he related to Mr. J. V. Hildreth, Chief Supervisor, Control, Security Printing, India?

Is he the same man who was responsible for an outbreak of fire due to his throwing a lighted cigarette which he was smoking inside the Press in contravention of the rules of the Press? If so, what action was taken against him?

(c) Will Government kindly state why the changed design was not printed on the 10-rupee star-watermarked paper instead of indenting fresh supply of the new design of paper, and utilising the costly paper for printing Postal Cash Certificates?

The Honourable Sir George Schuster: With your permission, Sir, I shall answer questions Nos. 1325, 1326 and 1328 to 1336 together. The information is being collected.

AMENITIES IN EUROPEAN AND INDIAN STYLE QUARTERS FOR THE STAFF OF THE CURRENCY NOTE PRESS, NASIK.

†1326. ***Mr. Gaya Prasad Singh:** (a) With reference to my starred question No. 9 of the 5th September, 1932, will Government kindly state the names of those Indians who live in European style quarters in Nasik; and the names of those Indians who refused to live in the European style quarters? Is it not a fact that no Indian officer has been allowed to occupy a European style quarter, although some of them applied for the same? Is it not a fact that Rao Bahadur Wasudev Anant, Chief Supervisor, Control, Currency Note Press, applied for the first grade European style quarters vacated by Mr. Allison, but was not allowed to occupy it?

(b) Is it not a fact that there is a good deal of difference in the amenities of European style and Indian style quarters of the same grade? Is it not a fact that European style quarters are fitted with electric fans, while Indian style quarters are not; if so, why is this discrimination? Is it not a fact that those living in European style quarters, first and second grade, get a free supply of 6,000 and 4,000 gallons of water respectively, whereas those living in Indian style quarters of the same grades get exactly half of this allowance? If so, why?

REPORT OF THE ACCOUNTANT GENERAL, BOMBAY, REGARDING THE NASIK PRESS BUILDINGS AND QUARTERS.

1327. ***Mr. Gaya Prasad Singh:** With reference to my starred question No. 11 of the 5th September, 1932, will Government be pleased to place a copy of the report of the Accountant General, Bombay, regarding the Nasik Press buildings and quarters, on the table? If not, why not?

The Honourable Sir George Schuster: As already stated in reply to the Honourable Member's starred question No. 11 on the 5th September, 1932, the Auditor General brought the matter to the attention of the Public Accounts Committee. The Memorandum presented to the Public Accounts Committee by the Auditor General on the results of the audit of the accounts of the Architects of Nasik Buildings is printed as Appendix XXV. to the Report of the Public Accounts Committee on the Accounts of 1930-31 and the views of the Committee are contained in paragraph 47 of the Proceedings on page 56 of that Report. Copies of this Report have

† For answer to this question, see answer to question No. 1325.

already been circulated to the Members of the Assembly and I do not, therefore, think that any purpose will be served by placing the Report on the table of the House.

Mr. Gaya Prasad Singh: Do I understand that the report of the Accountant General, Bombay, is included among the papers to which reference has been made?

Sir Alan Parsons: I think not.

Mr. Gaya Prasad Singh: The specific question was that the report of the Accountant General, Bombay, should be placed on the table, but that report, according to the reply just given, has not been supplied to the Public Accounts Committee or anywhere else. Is there any objection to placing a copy either on the table of the House or at least in the Library?

Sir Alan Parsons: The specific answer given by the Honourable the Finance Member was that as the Honourable Member will have on these matters the opinion of a higher officer than the Accountant General, Bombay, namely, the Auditor General, that should be sufficient for all purposes.

SHORTAGE OF CURRENCY NOTES AT NASIK.

†1328. ***Mr. Gaya Prasad Singh:** Will Government kindly state the number of occasions of shortage of currency notes at Nasik, with the names of the Supervisors responsible for them?

CASES OF THEFT OF CURRENCY NOTES REPORTED TO THE MAGISTERIAL COURTS AT NASIK.

†1329. ***Mr. Gaya Prasad Singh:** (a) Are Government aware that in a certain case of theft, the City Magistrate of Nasik criticised and condemned the work of an Assistant Supervisor of the Currency Note Press, Nasik, and recommended him for severe departmental punishment? Will Government kindly place in the Library a copy of this judgment, and also state how the magisterial recommendation was carried out? Will Government also state the name of the Assistant Supervisor?

(b) Will Government kindly state the number of thefts which were reported to the Magisterial Courts at Nasik and place copies of judgments in the Library?

PREFERENTIAL TREATMENT IN THE DISCHARGE OF AN EMPLOYEE OF THE CURRENCY NOTE PRESS, NASIK.

†1330. ***Mr. Gaya Prasad Singh:** (a) Is it a fact that Mr. M. H. Patel, of the Currency Note Press, Nasik, who was proved to be responsible for the theft of 5-rupee currency note sheets due to carelessness and ignorance, has been retained, while Mr. B. B. Mishra, against whom there is not a speck of any bad remark of any kind, has been discharged due to retrenchment? If so, why?

(b) Will Government kindly state if the past records of all the Assistant Supervisors were taken into consideration while selecting them for discharge? If not, why not?

† For answer to this question, see answer to question No. 1325.

ALLEGATIONS AGAINST THE MASTER, SECURITY PRINTING, INDIA, NASIK.

†1331. ***Mr. Gaya Prasad Singh:** (a) Is it a fact that a report against the misbehaviour of Mr. H. H. Johnson, a Printing Supervisor, was filed by Mr. B. B. Mishra, in which he criticised the policy of indifference and leniency of the Master in matters where Indians were insulted by Anglo-Indians and Europeans?

(b) Will Government kindly lay on the table a copy of Mr. Mishra's complaint against Mr. Johnson and other papers relating to this matter?

(c) Is it not a fact that no reply whatever was given to Mr. Mishra although fair and impartial enquiry was promised by the Master to dissuade him from taking legal action against Mr. Johnson, permission for which he sought in writing? If so, why? Are Government aware that in such matters the attitude of the Master is always anti-Indian?

(d) Are Government aware that there were certain other cases where Indians were insulted by Europeans and Anglo-Indians and action by the Master was not suitable?

APPOINTMENT OF ADYA GAUD BRAHMIN AS ASSISTANT SUPERVISORS, CURRENCY NOTE PRESS, NASIK.

†1332. ***Mr. Gaya Prasad Singh:** (a) Will Government kindly state the reasons for appointing six Adya Gaud Brahmins of the Ratnagiri district as Assistant Supervisors, Nasik, out of the total fifteen, and retaining all of them with the exception of the temporary hand even after retrenchment?

(b) Is it not a fact that these Adya Gaud Brahmin Assistant Supervisors are either relations of, or have been closely connected with, the Chief Supervisor, Control, Currency Note Press, who himself is an Adya Gaud Brahmin hailing from the district of Ratnagiri?

(c) Is it not a fact that one of them, Mr. A. R. Desai, is related to the Chief Supervisor, and another, Mr. G. V. Desai, is related to Mr. Narayanrao Anant Desai Topiwala of Bombay who is an intimate friend of the Chief Supervisor? Is it a fact that Mr. G. V. Desai was taken on only two months' probation instead of the usual six months? If so, why?

(d) Will Government state the date of the appointment of the Chief Supervisor, Control, in the Currency Note Press, together with the number of appointments conferred on Adya Gaud Brahmins of the Ratnagiri district out of the total number of appointments of Assistant Supervisors after that date?

(e) Is it not a fact that out of the total nine appointments of Assistant Supervisors after that date, six appointments were conferred on Adya Gaud Brahmins of the Ratnagiri district? If so, why?

(f) Will Government kindly state how the claims of different communities were respected in the appointment of fifteen Assistant Supervisors in the Currency Note Press?

(g) Is it a fact that the rules made by the Government of India were not respected while these appointments were made? If so, why?

† For answer to this question, see answer to question No. 1325.

CLAIMS OF RETRENCHED SUPERVISORS FOR VACANCIES OCCURRING IN THE CURRENCY NOTE PRESS, NASIK.

†1333. ***Mr. Gaya Prasad Singh:** Will Government be pleased to state whether, in the event of vacancies occurring in the staff of the Currency Note Press, Control Department, Nasik, the claims of the Supervisors retrenched will be favourably considered? If not, why not?

INDIANISATION IN THE NASIK PRESSES.

†1334. ***Mr. Gaya Prasad Singh:** (a) Will Government kindly state how far Indianisation has progressed in the Nasik Presses, and the particular posts which have been Indianised since the Master submitted his last report?

(b) Will Government state when it will be possible to Indianise the posts of the Master and Deputy Master of the Security Printing, Nasik, India?

RETRENCHMENT IN THE CURRENCY NOTE PRESS, NASIK.

†1335. ***Mr. Gaya Prasad Singh:** With reference to my starred question No. 13 of the 5th September, 1932, will Government be pleased to state whether the selection for retrenchment of the staff was made by the Master only? If so, was it not in contravention of the principles laid down by the Government of India in their Finance Department Cir. No. F-78-XA-Ex. 1/31 of the 3rd August, 1931, which lays down in para. I(2) that selection of individuals for discharge should be entrusted to a Selection Board specially constituted in each department or office? If so, why was this departure from the general principle made?

ASSESSED RENTS PAID BY EUROPEANS AND ANGLO-INDIANS FOR THEIR QUARTERS AT NASIK.

†1336. ***Mr. Gaya Prasad Singh:** (a) Will Government kindly state the names of those Europeans or Anglo-Indians who pay assessed rents at Nasik together with the amounts they pay?

(b) Will Government kindly state if the Master pays any assessed rent or not, in view of the fact that his quarters have cost Government a sum of Rs. 1 lakh and 12 thousand?

(c) Will Government also state if the Master should pay any assessed rent or not?

(d) Will Government state what should be the rent of the Master's quarters according to rules, and what should have been the worth of his quarters in consideration of his pay?

COMMUNITIES OF THE OFFICERS AND CLERKS WORKING IN THE POSTAL DEPARTMENT AT SRINAGAR.

1337. ***Dr. Ziauddin Ahmad** (on behalf of Seth Haji Abdoola Haroon): Will Government please lay on the table a statement showing the total number of officers of all grades and clerks working in the Postal Department, Srinagar (Kashmere Division), and how many of them belong to each of the following communities: (a) Hindus, (b) Muslims, and (c) Christians?

† For answer to this question, see answer to question No. 1325.

- (g) whether Government intend that the families of non-gazetted and inferior servants, who die while in service, should be thrown out on streets begging; if not, the reasons why the scheme is not given effect to immediately;
- (h) whether the question of funds is in the way of Government; and
- (i) whether it is a fact that Service Associations want that the Government contribution should be 100 per cent. as in State Railways and other semi-Government concerns, instead of 75 per cent. as proposed by Government; if so, whether Government are prepared to increase their contribution to 87 per cent. as a temporary measure and give immediate effect to the scheme? If not, why not?

The Honourable Sir George Schuster: (a) None of the Provincial Governments whose replies have been received have supported the scheme.

(b) All service associations have already had ample opportunity to express their views on the subject as a whole. On this occasion it has been left to Local Governments to consult their Service Associations if they so desire, but it has not been thought necessary to consult Associations under the Government of India.

(c) and (d). To a certain extent.

(e) I will consider laying papers, or as they are very voluminous, a full resume of them.

(f) No.

(g) and (h). The difficulty throughout has been to devise an acceptable scheme which would not involve undue expenditure.

(i) A majority of Service Associations favour the institution of a contributory provident fund on the lines of that in force for State Railway employees; but, for reasons which were given by the Government spokesman in the debate on this question in the Council of State on the 3rd March, 1932, it was decided that a provident fund scheme should not be adopted.

Mr. Lalchand Navarai: Will the Honourable Member be pleased to state how much time it will take for the Government of India to complete their scheme and put it in force?

Sir Alan Parsons: The Government of India have decided, in view of the opposition of the Local Governments, not to go on with the scheme.

Mr. S. G. Jog: Is it not a fact that in the Council of State the Resolution that was moved was withdrawn on the assurance by Government that the scheme will be given effect to without unnecessary delay?

Sir Alan Parsons: I think my Honourable friend goes rather further than the statements made by Government Members on those occasions which are in my mind would seem to warrant. I am prepared to agree that inadvertently the Government spokesmen on those occasions gave perhaps an impression that Government were committed to the scheme to an extent to which actually they were not committed.

Mr. Lalchand Navarai: Will the Honourable Member be pleased to state if the Provincial Governments have suggested any alternative in order to meet the desire of these services?

Sir Alan Parsons: No. The Provincial Governments have not suggested any alternative scheme, except in one case, as far as I remember. The Government of the United Provinces have suggested, I believe, that an extension of compulsory subscriptions to the General Provident Fund would meet the difficulty in those cases in which it arises.

Mr. Lalchand Navarai: Is the Honourable Member prepared to say that the Government of India are now inclined to finish with this question or if they have any alternative under their own consideration?

Sir Alan Parsons: We are not at the moment considering the introduction of any alternative, because, as my Honourable friend is aware, we are not at the present moment able to afford any unnecessary expenditure.

QUALIFICATIONS FOR APPOINTMENT AS TRANSPORTATION INSPECTORS, COMMERCIAL, ON THE EAST INDIAN RAILWAY.

1342. ***Mr. E. H. M. Bower:** Will Government be pleased to state:

- whether a subordinate aspiring for the post of Transportation Inspector, Commercial, on the East Indian Railway is required to have any practical outdoor experience and, if so, in what capacities;
- whether the candidate is required to pass any departmental examinations and, if so, what they are; and
- whether such aspirants are required to go through a course of training at Chandausi and at Dehra Dun?

Mr. P. R. Rau: With your permission, Sir, I will answer this and the next question together. I have called for the information and will lay a reply on the table in due course.

QUALIFICATIONS FOR APPOINTMENT AS CHIEF CLAIMS CLERK IN THE OFFICE OF THE DEPUTY CHIEF COMMERCIAL MANAGER, EAST INDIAN RAILWAY, CALCUTTA.

†1343. ***Mr. E. H. M. Bower:** Will Government be pleased to state:

- what qualifications are required for the post of Chief Claims Clerk in the office of the Deputy Chief Commercial Manager, East Indian Railway, Calcutta;
- whether a candidate for this post is required to have practical outdoor experience in connection with claims work and, if so, in what capacities;
- whether office experience as a head of a claims-dealing section only is considered essential qualification for the above post; and
- what departmental examinations is such an aspirant required to pass to be considered eligible for this post?

† For answer to this question, see answer to question No. 1342.

DEFINITION OF "UPPER SUBORDINATES" ON STATE RAILWAYS.

1344. *Mr. E. H. M. Bower: (a) Will Government be pleased to give a definition of the term "upper subordinate" as used in respect to employees on State Railways?

(b) Is the position of an upper subordinate on a State Railway dependent on his substantive salary?

(c) If the answer to part (b) be in the negative, will Government please state the qualifications which entitle a subordinate to be termed as an "upper subordinate"?

Mr. P. R. Rau: (a), (b) and (c). Pensionable subordinates in the Engineering Department of State-managed Railways, viz., Sub-Engineers, Supervisors and Overseers are designated "Upper Subordinates". Passed students of the Upper Subordinate class of the Thomason Engineering College, Roorkee, were eligible for appointment to the Upper Subordinate Establishment on State-managed Railways. Recruitment to this Establishment was discontinued some time ago. I would add that the expression "Upper Subordinates" is also sometimes used, though not in a definite sense, to refer to the higher grades of the subordinate establishments of railways.

Mr. E. H. M. Bower: Arising out of this answer, do I take it that the position of Upper Subordinates does not depend on the salary?

Mr. P. R. Rau: No; I have explained what is strictly meant by the term "Upper Subordinates": it means pensionable subordinates in the Engineering Department of State-managed Railways, viz., Sub-Engineers, Supervisors and Overseers.

Mr. E. H. M. Bower: If so, will Government please state if an Upper Subordinate is really a subordinate who has no other subordinate supervising his work, but is one who works directly under a gazetted officer?

Mr. P. R. Rau: I am not quite familiar with the exact position of Upper Subordinates on Railways; and, if my Honourable friend wants a definite reply to his question, I must ask him to put a definite question on the paper.

APPOINTMENT OF NEW PROBATIONERS IN THE OFFICIAL CADRE ON THE GREAT INDIAN PENINSULA RAILWAY.

1345. *Mr. E. H. M. Bower: (a) Will Government please state whether it is a fact that two new probationers have been engaged in the official cadre on the Great Indian Peninsula Railway and posted one at Bhusawal and the other at Igatpuri?

(b) Will Government please give the reasons why these new appointments were made when there are so many subordinates who have been acting in the official grade for many years?

(c) Is it not a fact that the Railway Board have given an assurance that there would be no more recruitment in the official cadre from outside sources as there were many Europeans, Anglo-Indians and Indians who are in the acting grade and are qualified for promotion?

Mr. P. R. Rau: (a) and (b). No recruitment for the Superior Service for the Great Indian Peninsula Railway has been made during the current financial year. An officer who joined the service in April this year was recruited on the results of the examination held by the Public Service Commission in November, 1931. The recruitment which had been arranged for on a normal scale in the previous years was restricted as soon as it became evident that a large number of posts would be brought under reduction.

(c) No; the only statement made was that the new Lower Gazetted Service was intended essentially for specially selected subordinates with no outside recruitment.

CREATION OF THE POST OF PERSONAL ASSISTANT TO THE POWER OFFICER AT BHUSAWAL.

1346. *Mr. E. H. M. Bower: (a) Is it a fact that the Great Indian Peninsula Railway has recently created an extra post as Personal Assistant to the Power Officer at Bhusawal?

(b) Is it a fact that there are already two Power Officers in this Division?

(c) Do Government propose to retain this additional officer in this post?

(d) If the answer to part (c) be in the negative, will Government please state for what period is his post to be kept filled?

Mr. P. R. Rau: I have called for the information and will lay a reply on the table in due course.

AMALGAMATION OF THE TRANSPORTATION AND COMMERCIAL DEPARTMENTS ON STATE RAILWAYS.

1347. *Mr. E. H. M. Bower: Have Government taken any steps for the amalgamation of the Transportation and Commercial Departments on State Railways and particularly on the Great Indian Peninsula Railway as suggested by Lieut.-Col. Sir Henry Gidney last year?

Mr. P. R. Rau: The question has been investigated by an officer on special duty and his report is at present under the consideration of the Railway Board.

RETRENCHMENT OF SENIOR ACCOUNTS INSPECTORS BY THE CHIEF ACCOUNTS OFFICER, GREAT INDIAN PENINSULA RAILWAY.

1348. *Mr. E. H. M. Bower: Will Government please state who authorized the Chief Accounts Officer of the Great Indian Peninsula Railway to effect retrenchment of three senior Accounts Inspectors on the communal basis?

Mr. P. R. Rau: I am informed that there was no retrenchment effected on a communal basis.

NON-APPLICATION OF THE RAILWAY BOARD MEMORANDUM NO. 5585 OF 1929, TO THE GREAT INDIAN PENINSULA RAILWAY INSPECTORS OF STATIONS AND STORES.

1349. *Mr. E. H. M. Bower: (a) Will Government please state why the conditions and provisions contained in the Railway Board Memorandum

The Honourable Sir Frank Noyce: A statement giving the required information is laid on the table.

Statement.

	Hindus.	Muslims.	Christians.	Total.
1. Superintendent of Post Offices .	..	..	1	1
2. Postmaster, Rs. 250—350 .	..	1	..	1
3. Deputy Postmaster, Rs. 160—250 .	1	..	..	1
4. Assistant Postmaster, Rs. 180—250 .	1	..	..	1
5. Inspector of Post Offices, Rs. 160—250	1	..	..	1
6. Head Clerk to the Superintendent of Post Offices, Rs. 160—250 .	1	..	..	1
7. Sub-Postmasters and Clerks, Rs. 35—135 .	36	4	..	40
Total .	40	5	1	46

CONFIRMATION OF CERTAIN STAFF OF THE KASHMERE DIVISION OF THE POSTAL DEPARTMENT.

1338. ***Dr. Ziauddin Ahmad** (on behalf of Seth Haji Abdoola Haroon): (a) Is it a fact that the rules make it obligatory on the Postal Department to confirm approved candidates in the Postal service within six months of their being accepted as candidates?

(b) If so, are Government aware that it is in the Kashmere Division only where there are approved candidates of six years' standing awaiting confirmation?

(c) Is it a fact that these candidates are regularly working as paid clerks in season months and are unpaid in the winter months, and, by this, have passed the prescribed age limit and thus are prevented from service in the State?

(d) Are Government aware that the Kashmere Division is the only Division, where candidates, some of them graduates, telegraph-trained hands and sons of deceased postal employees are still unconfirmed?

Mr. T. Ryan: (a) No.

(b) Does not arise.

(c) As regards the first part of the question, the facts are substantially as stated by the Honourable Member. As regards the second, Government have no information as to the age limit prescribed for entrance into the Kashmir State service.

(d) The reply is in the negative.

CONFIRMATION OF CERTAIN STAFF OF THE KASHMERE DIVISION OF THE POSTAL DEPARTMENT.

1339. ***Dr. Ziauddin Ahmad** (on behalf of Seth Haji Abdoola Haroon): (a) Is it a fact that Government have very recently introduced the system of lower division clerkship in the Postal Department, 50 per cent. of which posts are being filled up by the inferior staff?

QUESTIONS AND ANSWERS.

(b) Are Government aware that these candidates, although approved for the higher cadre, have shown their willingness to work as lower division clerks, irrespective of their higher educational and technical qualifications?

(c) If the answer to the above queries be in the affirmative, what are the reasons that led the authorities concerned to bring about this state of affairs?

Mr. T. Ryan: (a) That fact is not exactly as stated. The scheme of the lower division clerical cadre has been in existence since 1928 and vacancies in that cadre are now being filled alternately, (1) by qualified men of the postmen class and of inferior staff, and (2) by approved candidates for the upper division clerical cadre enlisted prior to November, 1931.

(b) Government have no information.

(c) I regret that I do not understand this part of the Honourable Member's question and am therefore unable to reply to it.

INADEQUATE REPRESENTATION OF MUSLIMS IN THE KASHMERE DIVISION OF THE POSTAL DEPARTMENT.

1340. ***Dr. Ziauddin Ahmad** (on behalf of Seth Haji Abdoola Haroon): Are Government aware that Muslims are not being well represented in the Kashmere Division of the Postal Department, and, if so, do Government propose to rectify communal inequality? If not, why not?

The Honourable Sir Frank Noyce: As regards the first part of the question the facts are substantially as stated by the Honourable Member.

As regards the other two parts, the Honourable Member is referred to the replies given by the Honourable Sir Bhupendra Nath Mitra to Mr. Muhammad Anwar-ul-Azim's starred questions Nos. 352 and 330 in this House on the 7th March, 1928, and the 30th January, 1929, respectively.

SCHEME OF PROVIDENT FUND FOR GOVERNMENT EMPLOYEES.

1341. ***Mr. Lalchand Navalrai:** With reference to starred question No. 146, dated 8th September, 1932, will Government be pleased to state:

(a) whether the Provincial Governments have approved the new Provident Fund Scheme;

(b) whether the Service Associations under the Government of India were consulted;

(c) whether the scheme is different from the one originally proposed and rejected by 90 out of 95 Associations;

(d) if the reply to part (c) be in affirmative, whether it is more beneficial to the staff than the one originally proposed;

(e) whether Government will be pleased to lay a copy of the scheme on the table for the information of the Members? If not, why not?

(f) in case any of the Provincial Governments or Service Associations again reject the scheme, whether Government propose to keep it pending for some years more;

No. 5565, dated New Delhi, the 31st July, 1929, are not applied to the Great Indian Peninsula Railway Inspectors of Stations and Stores?

(b) Will Government please state what has happened to moneys sanctioned under Budget estimates since 1929 on the said Memorandum?

Mr. P. R. Rau: (a) I am not aware of any of these conditions or provisions which are not applied to the Great Indian Peninsula Railway Accounts Department.

(b) I am sorry I have been unable to understand this question.

AMOUNT SPENT ON THE CONSTRUCTION WORKS AT BHUSAWAL IN THE RUNNING SHED.

1350. ***Mr. E. H. M. Bower:** (a) Will Government please state whether it is a fact that the Great Indian Peninsula Railway has spent nearly Rs. 2½ lakhs on some construction works at Bhusawal in the running shed?

(b) Is it a fact that the Railway Board promised that no such expenses would be incurred until better times come?

Mr. P. R. Rau: (a) An estimate amounting to some Rs. 3½ lakhs for additions and alterations to the locomotive running shed at Bhusawal was sanctioned by the Railway Board in June, 1931.

(b) I have not been able to trace any such promise.

NON-ALLOTMENT OF A SEAT TO INDIAN CHRISTIANS IN THE CENTRAL PROVINCES IN THE COMMUNAL AWARD.

1351. ***Mr. E. H. M. Bower:** (a) Are the Government of India aware of the fact that in the "Communal Award" no seats whatever have been allotted to the Indian Christian community in the Central Provinces?

(b) If the answer to part (a) be in the affirmative, will Government state whether they are prepared immediately to represent this matter to the authorities concerned?

The Honourable Sir Brojendra Mitter: (a) Yes.

(b) I would refer the Honourable Member to paragraph 4 of the Communal Decision.

Dr. F. X. DeSouza: Are Government aware that the Indian Christian community in the Central Provinces numbers 40,000, but has not been allotted even one seat, whereas Anglo-Indians, who hardly number 1,500 or 2,000, have been given two seats and Europeans, who number even less, have been given one seat?

The Honourable Sir Brojendra Mitter: I have not the figures before me, but I am prepared to accept the figures from the Honourable Member.

Dr. F. X. DeSouza: Will Government be pleased to state why, in spite of the numerical and cultural importance of my community, the claims of this community for representation in the Legislative Council and Legislative Assembly and the Round Table Conference have been consistently ignored? Is it because they have hitherto completely abstained from taking part in anti-Government agitation?

The Honourable Sir Brojendra Mitter: The Government of India are not responsible for the Communal Decision.

Mr. K. Ahmed: Did the Government of India Despatch contain anything of their information on the subject to the Secretary of State or the Prime Minister and was it laid before the Round Table Conference before the Award was given?

The Honourable Sir Brojendra Mitter: So far as the Government of India are concerned, full materials were placed before His Majesty's Government and the decision was taken by His Majesty's Government. The Government of India are not in any way responsible for the decision.

Mr. K. Ahmed: The responsibility cannot be transferred to some other Honourable Member at Home, unless the Government fully explain their position that they clearly and definitely set forth in their Despatches the numerical position and claims raised by the Honourable Member representing the Indian Christian community and that in what he wants to be satisfied with if the Honourable the Law Member will be pleased to state?

The Honourable Sir Brojendra Mitter: What is the question? (Laughter.)

Mr. K. Ahmed: Did the Government of India and the Law Member realise the situation that unless they cleared up the difficulties created by the Honourable Member himself stating already that the full material were placed in this Despatch, but at the same time he has not explained at all whether the numerical position of the Indian Christian community was stated therein and whether they took sufficient care to give particulars of the numerical position of the Indian Christians in their Despatches to the Secretary of State before the Award was given ignoring their claim?

The Honourable Sir Brojendra Mitter: Sir, I am really unable to follow the question?

Mr. K. Ahmed: If the Honourable the Law Member will kindly apply his mind to this question, he will be able to follow it. Did the Government of India particularly and specifically mention the numerical position of the Indian Christians in India in their Despatch to the Secretary of State?

The Honourable Sir Brojendra Mitter: I can only repeat that full information was placed before His Majesty's Government, and His Majesty's Government have taken a decision for which the Government of India take no responsibility.

Mr. K. Ahmed: Sir, it is hopeless to continue any further?

Mr. Amar Nath Dutt: May I know whether the Government of India made any recommendation about any province? I refer particularly to Bengal, and whether it is a fact that the recommendation of the Government of Bengal was not accepted by the Government of India who substituted their own recommendation for that of the Government of Bengal?

The Honourable Sir Brojendra Mitter: I do not accept any of the assumptions.

Mr. S. G. Jog: Are the Government of India aware that there is a strong feeling in the Central Provinces that the Indian Christian community have not been allotted even a single seat in the Legislative Council of that Province?

The Honourable Sir Brojendra Mitter: I could not follow the last part of the Honourable Member's question. Will he kindly repeat it?

Mr. S. G. Jog: Are the Government of India aware of a strong feeling among the Indian Christian community for their not having been allotted a single seat in the Central Provinces Legislative Council?

The Honourable Sir Brojendra Mitter: I gather there is a feeling amongst certain Members of this House.

Mr. D. K. Lahiri Chaudhury: Will this feeling be communicated to His Majesty's Government?

Mr. S. G. Jog: My question is not as regards the feeling of certain Members in this House. My question is, whether Government are aware of any such feeling among the Indian Christian community in the Central Provinces?

The Honourable Sir Brojendra Mitter: I am not aware of any such feeling.

Mr. D. K. Lahiri Chaudhury: Will the Government of India be prepared to communicate this matter to His Majesty's Government?

The Honourable Sir Brojendra Mitter: No, Sir; no useful purpose will be served by communicating it to His Majesty's Government.

Mr. Lalchand Navalrai: All that we can infer is that the Government of India do not know what takes place outside?

The Honourable Sir Brojendra Mitter: The Government of India know a great deal more than what the Honourable Member assumes.

Mr. Lalchand Navalrai: Then I want to know whether there is any such feeling outside the House or not. If the Government know about public opinion outside, then the Honourable Member should be in a position to say what is the public opinion on this point outside?

The Honourable Sir Brojendra Mitter: All I can say is this, that mere ascertainment of public opinion on any particular question will serve no useful purpose, because paragraph 4 of the Communal Decision has clearly laid down the condition upon which that decision may be altered.

REPRESENTATION BY LEGAL ADVISERS OF RAILWAY EMPLOYEES IN DEPARTMENTAL ENQUIRIES.

1352. ***Mr. E. H. M. Bower:** Will Government be pleased to state whether, in all departmental enquiries (particularly on Railways), with special reference to those enquiries that are likely to result in the discharge or dismissal of an employee, the employee is entitled to be represented by a legal adviser or an agent with power of attorney? If not, why not?

Mr. P. E. Hall: Rules regarding departmental enquiries do not provide for the representation by a legal adviser of the Government servant whose conduct is under investigation. Government consider this unnecessary.

GOVERNMENT SERVANTS JOINING DULY REGISTERED LABOUR UNIONS.

1353. ***Mr. E. H. M. Bower:** (a) Will Government be pleased to inform this House, whether all their servants (excluding the military), irrespective of grade, are permitted to join any duly registered labour union?

(b) If not, why not?

The Honourable Mr. H. G. Haig: While the rules at present in force do not specifically prohibit officers of any grade from joining any union, registered or otherwise, Government recognition is confined to unions of their servants which conform with the recognition rules.

Dr. Ziauddin Ahmad: What are these recognition rules?

The Honourable Mr. H. G. Haig: They are rules laid down by the Government of India.

Dr. Ziauddin Ahmad: Are they published anywhere?

The Honourable Mr. H. G. Haig: I do not think they have been published.

Dr. Ziauddin Ahmad: Will the Honourable Member kindly arrange to supply a copy of these rules to the Members of the Assembly?

The Honourable Mr. H. G. Haig: If the Honourable Member will put down a question, I will consider the matter.

Dr. Ziauddin Ahmad: Will he kindly take this question for notice?

ALLEGED IRREGULARITIES IN SOME FILES OF THE OFFICE OF THE CONTROLLER OF STORES.

1354. ***Mr. Gaya Prasad Singh:** (a) Is it a fact that serious irregularities in some files of the office of the Controller of Stores have been discovered by the Audit Department: that sheets have been removed from contract ledgers, and new ones inserted in their places to cover up shady transactions; that sealed samples have been spirited away from the sample room, and inferior samples substituted?

(b) Will Government kindly state what are the facts, indicating the extent of loss, if any, the persons implicated, and the steps taken in the matter?

The Honourable Sir Frank Noyce: The irregularities referred to by the Honourable Member were not discovered by the Audit Department, but by the Stores Department itself. Enquiries are now in progress and the matter is receiving my personal attention.

Mr. Gaya Prasad Singh: I thank the Honourable Member for promising to give his personal attention to this matter, but, in view of the seriousness of the allegation, will he be pleased to communicate the result to this House at a later stage?

The Honourable Sir Frank Noyce: I will consider that after the report on the irregularities has been received.

ALLEGATIONS AGAINST GARHWALI SOLDIERS AT MIDNAPUR.

1355. ***Mr. Gaya Prasad Singh:** Are Government aware that Mr. Sudhamay Bannerjee, a pleader of Midnapur (Bengal), was proceeding from the Criminal to the Civil Court on his cycle on or about the 22nd October, 1932, and when he saw a batch of four or five soldiers of the Garhwali Regiment coming from the opposite direction, the pleader at once took himself to the left-hand side, but a soldier kicked the cycle down, and the gentleman sustained bodily injuries? If so, what action, departmental or otherwise, has been taken in the matter; and with what result?

Mr. G. B. F. Tottenham: A report has been called for and a reply will be laid on the table when it is received.

TRANSFER OF WOMEN PRISONERS TO THE ANDAMANS.

1356. ***Mr. Gaya Prasad Singh:** (a) Is it a fact that women prisoners have been, or are about to be, sent to the Andamans? If so, how many, who are they, and for what offence have they been convicted?

(b) Are Government aware that the Jail Committee reported (Volume I, para. 626), that "the deportation to the Andamans of all female convicts, and the great majority of the male convicts should be put an end to as soon as possible"? Was not this recommendation accepted by Government?

The Honourable Mr. H. G. Haig: I would refer the Honourable Member to the reply which I gave to Rai Bahadur Sukhray Roy's starred question No. 1249 on the 16th November to which I have nothing to add.

APPRECIATION OF THE PAST WORK OF INDIANS IN TANGANYIKA.

1357. ***Mr. Gaya Prasad Singh:** (a) Has the attention of the Government been drawn to the *Tanganyika Opinion* of the 29th July, 1932, page 16, where appears a message from Kunwar Maharaj Singh, the new Agent General of the Government of India in South Africa?

(b) Have Government noted that in his opinion the past work of the Indians in Tanganyika deserves every recognition and appreciation?

Mr. G. S. Bajpai: (a) and (b). Yes, Sir.

UNIFICATION OF THE TANGANYIKA POSTAL AND TELEGRAPH DEPARTMENT WITH THAT OF KENYA AND UGANDA.

1358. ***Mr. Gaya Prasad Singh:** (a) Has the attention of the Government been drawn to the *Tanganyika Opinion* of September 2nd, 1932, page 3, under the heading "Is Postal Unification Settled? What is the fact?"; page 6, under the heading "Kenya P. M. G.'s Arguments for Postal Union under Fire"; page 11, under the heading "Some Powerful Shells on Postal Unification"?

(b) Has the attention of the Government been drawn to the memorandum of the Dar-es-Salaam Indian Association to the Secretary of State for the Colonies against the postal unification as reproduced in the *Tanganyika Opinion* of the 16th September, 1932, at page 3? Has this question been settled? If so, in what way?

Mr. G. S. Bajpai: (a) Yes.

(b) The reply to the first part is in the affirmative and to the second part in the negative. Government are informed that there is no intention of coming to final conclusions in the matter without affording full opportunity for public criticism.

Mr. Gaya Prasad Singh: Do I understand the Honourable Member to say that the proposed unification has already been decided upon by the Government?

Mr. G. S. Bajpai: No, Sir; there is no intention of coming to conclusions in the matter without affording full opportunity for public criticism.

Mr. Gaya Prasad Singh: Are Government aware that this matter was not referred to the Legislative Council of Tanganyika?

Mr. G. S. Bajpai: That is perfectly true, but my Honourable friend would be able to infer from what I have said that the Legislative Council will have an opportunity of considering the matter.

Mr. Gaya Prasad Singh: Are the Government of India aware that in the Legislative Council in Tanganyika the Honourable Mr. Jardine, Chief Secretary to the Government, virtually stated that it was a settled fact, and added that "if ever there was found to be any loss of efficiency, the Government of Tanganyika will retreat from the arrangement". Does it not indicate that the settlement has already been arrived at?

Mr. G. S. Bajpai: Will my Honourable friend kindly let me know the date of the alleged statement?

Mr. Gaya Prasad Singh: I am quoting from the *Tanganyika Opinion*, dated the 7th of October, 1932. I will hand over the copy to the Honourable Member if he wants it.

Mr. G. S. Bajpai: My information is somewhat later than that, and it amounts to this, that no decision has yet been reached, and that before a final decision is reached, the Tanganyika Legislative Council will have an opportunity of expressing its views upon the matter.

Mr. Gaya Prasad Singh: Are Government aware that some Members of the Tanganyika Legislative Council, Major Wells and Mr. Wyndham, also suggested that the Post Master General for the unified services should be recruited from England?

Mr. G. S. Bajpai: That is quite possible, but I do not think that it in any way detracts from the accuracy of the statement which I have made.

INSECURITY OF LIVES AND PROPERTY OF INDIANS AT DAR-ES-SALAAM.

1359. ***Mr. Gaya Prasad Singh:** Have Government noted in the *Tanganyika Opinion*, weekly edition, 16th September, 1932, under the heading "A Call to the Police", that the lives and property of the Indian section of the non-native communities in Dar-es-Salaam are not secure

against the law-breakers? Do Government propose to make any representations to the Government of Tanganyika on the subject so as to assist the Indian community in that territory?

Mr. G. S. Bajpai: Government have seen the articles referred to by the Honourable Member. They consider that the matter can most suitably be dealt with by the Indian community in Tanganyika making direct representations to the Government of the territory.

FACILITIES FOR THE EDUCATION OF INDIAN CHILDREN IN TANGANYIKA.

1360. ***Mr. Gaya Prasad Singh:** (a) Has the attention of the Government been drawn to the leading article in the *Tanganyika Opinion*, weekly edition, at page 10 of the issue, dated the 30th September, 1932, under the heading "Education and Literacy"?

(b) Is it a fact that, out of a total of 6,598 Indian boys and girls of school-going age, only 500 children were provided for by the Government of Tanganyika?

(c) Are Government prepared to take early steps to negotiate with the Colonial Office in order that more facilities for the education of the Indian children may be provided so as to be compatible with the needs of the community?

Mr. G. S. Bajpai: (a) Yes, Sir.

(b) The statement appears to be incomplete because according to the Tanganyika Blue-Book for 1931, the Government of the territory also made grants-in-aid to private schools with an enrolment of 1,351.

(c) Government have received no representations on the subject from the Indian community of Tanganyika and have no doubt that the matter will be dealt with, if necessary, by the representatives of the community in the local Legislative Council.

UNIFICATION OF THE TANGANYIKA POSTAL AND TELEGRAPH DEPARTMENT WITH THAT OF KENYA AND UGANDA.

1361. ***Mr. Gaya Prasad Singh:** (a) Has the attention of the Government been drawn to the memorandum which the Dar-es-Salaam Indian Association has addressed to the Permanent Mandates Commission of the League of Nations opposing postal unification as reproduced in the *Tanganyika Opinion* of the 7th October, 1932, at pages 3, 4, 5, 6, 7 and 8?

(b) Has the attention of the Government been drawn to the article in the *Tanganyika Opinion* of 21st October, 1932, at page 11, under the heading "Postal Unification an Accomplished Fact"?

(c) Have Government received any representation from the Dar-es-Salaam Indian Association requesting Government to seek expert legal opinion on the subject whether the Permanent Court of International Justice should be moved? What action, if any, has been taken in the matter?

Mr. G. S. Bajpai: (a) and (b). Yes.

(c) The answer to the first part is in the affirmative. As regards the second part, Government do not consider that the necessity for any such action has arisen.

UNSTARRED QUESTIONS AND ANSWERS.

SPEECHES AT, AND CORRESPONDENCE RELATING TO, THE OTTAWA CONFERENCE.

197. **Mr. Bhuput Singh:** Will Government be pleased to place in the Library of the House:

- (a) the full text of the speeches made by the different delegates, official and non-official, that represented India at the Ottawa Conference, on the different subjects that came up for discussion there; and
- (b) the full details of the correspondence that passed between the Home Government and the Government of India before and after the Ottawa Conference relating to the subject matters of that Conference?

The Honourable Sir Joseph Bhoré: (a) Copies of the Report of the Imperial Economic Conference, 1932, and Appendices to the Summary of Proceedings containing the published speeches are already in the Library of the Legislature. The Government of India have received no other publication containing speeches made at the Conference by members of the Indian Delegation.

(b) As the correspondence is confidential, I regret that I am not able to comply with the request of the Honourable Member.

POSTPONEMENT OF APPLICATION OF THE INDIAN RAILWAYS (AMENDMENT) ACT, 1930, TO THE BENGAL AND NORTH WESTERN RAILWAY.

198. **Pandit Satyendra Nath Sen:** (a) Is it a fact that the application of the Indian Railways (Amendment) Act, (XIV) of 1930, to the Bengal and North Western Railway has been postponed by Government?

(b) If so, will Government be pleased to state:

- (i) when and for how long its application has been postponed;
- (ii) whether it was postponed at the request of the authorities of that Railway or on their own accord;
- (iii) whether its application was postponed on account of financial stringency; and
- (iv) whether this Railway Company has not declared a dividend of 15 per cent. for its financial year ending the 30th September, 1931?

(c) If the reply to part (b) (iv) be in the affirmative, will Government be pleased to state:

- (i) whether the application of the Act was not possible with such an enormous profit;
- (ii) what should be the average income of the Railways to enable the application of the Act to them; and
- (iii) whom Government propose to hold responsible for stating that there was financial stringency on this Railway?

Mr. P. R. Ray: (a) and (b) (i) to (iii). I would refer the Honourable Member to the Railway Board's Communiqué of the 18th March, 1932, a copy of which will be found in the Library of the House.

(b) (iv). Government understand that the Board of Directors of the Bengal and North Western Railway Company, Limited, had recommended, inclusive of interim Dividend, a Dividend and bonus of 16 per cent. for the year ended 30th September, 1981.

(c) (i). Government consider that the question of meeting the additional expenditure that will be involved if the Act is to be applied to railways to which they have not yet been applied should be considered with reference to the financial position of all railways taken together and not with reference to any one particular line.

(c) (ii). Government are unable to express a definite opinion on this point at present but the question of applying the Act to Company-managed Railways will be considered when the financial position improves.

(c) (iii). I am not aware to what statement my Honourable friend refers.

COMPULSORY LEAVE FOR SIGNALLERS ON THE BENGAL AND NORTH WESTERN RAILWAY.

199. **Pandit Satyendra Nath Sen:** (a) Is it a fact that a number of signallers on the Bengal and North Western Railway have been given compulsory leave as a measure of retrenchment?

(b) If so, will Government please state:

(i) how many and for how long;

(ii) what has led the Railway to effect retrenchment; and

(iii) whether they are satisfied that the withdrawal has not put the remaining staff to undue hardship?

Mr. P. R. Rau: I have called for information and will lay a reply on the table in due course.

MORE HOLIDAYS TO DAILY-RATED WORKMEN OF GORAKHPUR AND SAMASTIPUR WORKSHOPS.

200. **Pandit Satyendra Nath Sen:** (a) Is it a fact that on the Bengal and North Western Railway daily-rated workmen of the Workshops at Gorakhpur and Samastipur are given more holidays than they actually require and more than the number of actual holidays, without payment of wages?

(b) If so, will Government be pleased to state the reason that justifies the grant of so many holidays when actually there are no holidays?

Mr. P. R. Rau: (a) and (b). The Agent reports that to avoid discharging surplus staff the system of short time working is being employed which involves the closing of the workshops at both Gorakhpur and Samastipur for a certain number of days, not exceeding two per month exclusive of gazetted holidays. The workmen do not receive wages for the days the shops are so closed.

NEW LEAVE RULES FOR SUBORDINATE STAFF ON THE BENGAL AND NORTH WESTERN RAILWAY.

201. **Pandit Satyendra Nath Sen:** (a) Is it a fact that on the Bengal and North Western Railway scales of leave, so far granted to the subordinate staff, have been reduced with effect from the 1st April, 1982?

(b) If so, what are the new scales and what are the reasons that justify the introduction of the new leave rules?

Mr. P. R. Rau: I have called for information and will lay a reply on the table in due course.

PROPOSED RETRENCHMENT OF WORKMEN ON THE BENGAL AND NORTH WESTERN RAILWAY.

202. **Pandit Satyendra Nath Sen:** (a) Is it a fact that on the Bengal and North Western Railway there is a proposal to reduce the number of the workmen?

(b) If so, how many men are expected to be involved and what would be the approximate saving to the Railway by making such retrenchment?

Mr. P. R. Rau: (a) The Agent reports that there is no proposal to reduce the number of workmen provided that there is no further decline in traffic.

(b) Does not arise.

PROVISION OF CHAIRS TO THE CLERICAL STAFF ON THE BENGAL AND NORTH WESTERN RAILWAY.

203. **Pandit Satyendra Nath Sen:** (a) Is it a fact that the clerks in the audit office and at stations on the Bengal and North Western Railway are not provided with chairs for their seats, but that they are provided with stools?

(b) If so, will Government be pleased to state:

(i) why they are not provided with chairs;

(ii) whether they propose to draw the attention of the Agent, Bengal and North Western Railway, to the necessity of providing chairs to those who do clerical duties; and

(iii) which are the other Railways which have provided stools to their clerical staff?

Mr. P. R. Rau: Government have no information, but I will bring the Honourable Member's question to the notice of the Agent, Bengal and North Western Railway.

INTIMIDATION OF EMPLOYEES SEEKING REDRESS OF GRIEVANCES THROUGH THE BENGAL AND NORTH WESTERN RAILWAYMEN'S ASSOCIATION.

204. **Pandit Satyendra Nath Sen:** (a) Are Government aware that on the Bengal and North Western Railway some petty officials have made it a point to intimidate those employees of the Railway who work for the Bengal and North Western Railwaymen's Association and who seek redress of their grievances through it?

(b) Are Government aware of the following facts:

(i) that one Chhedi, a fitter of the Locomotive and Carriage Workshops, Gorakhpur, while on duty, sustained injury to one of his eyes resulting in its total failure;

- (ii) that after his injury healed after a treatment for two months and five days, he was given by the Principal Medical Officer a fit certificate and he was allowed to resume his work about the 26th January, 1980;
- (iii) that he worked till the 19th August, 1980, or for about seven months;
- (iv) that his case for compensation, under the Workmen's Compensation Act, was represented to the Agent of the Railway by the Bengal and North Western Railwaymen's Association;
- (v) that the Agent did not reply to the representation made to him;
- (vi) that the case was ultimately referred to the Workmen's Compensation Commissioner resulting in the payment of the Compensation on the 19th August, 1981;
- (vii) that the very day he got the compensation he was removed from his employment;
- (viii) that representations for the reconsideration of his case to the Railway authorities made by him and, on his behalf, by the Bengal and North Western Railwaymen's Association proved to be of no use; and
- (ix) that failing to receive a reply from the Agent, the Association again approached the Workmen's Compensation Commissioner and the Agent wrote to the Commissioner to the effect that the loss of one eye of the man concerned rendered him no longer fit for further service?

(c) If the answer to part (b) (ii) and (ix) be in the affirmative, will Government kindly say what led the Principal Medical Officer to grant him a fit certificate and why the man was allowed to work for seven months, if he was no longer fit for further service?

(d) Are Government aware of the following facts:

- (i) that one Alijan, a fitter of the running shed, Samastipur, sustained injury to his left eye while on duty on the 6th August, 1981, resulting in its total failure;
- (ii) that when his injury healed after a course of treatment for one month and seventeen days, he was given a fit certificate by the railway doctor and was allowed to resume his work and he worked as a fitter till the 5th November, 1981, or for a month and a half; and
- (iii) that in the meantime his case for compensation, under the Workmen's Compensation Act, was represented by the Bengal and North Western Railwaymen's Association to the Agent of the Railway on the 20th October, 1981, and the man was removed from his employment on the 4th November, 1981, or within a week of the representation?

Mr. P. B. Rau: I have called for certain information and will lay a reply on the table in due course.

PURCHASE OF THE BENGAL AND NORTH WESTERN AND ROHILKUND AND KUMAON RAILWAYS.

205. Pandit Satyendra Nath Sen: Will Government be pleased to state:

- (a) what they have been pleased to do in the matter of the future administration of the Bengal and North Western and Rohilkund and Kumaon Railways, and
- (b) when these two Railways are to be the properties of the State?

Mr. P. B. Rau: (a) and (b). I would refer the Honourable Member to the Railway Department Notification No. 6370-F, dated 16th May, 1982, published at pages 645 to 651 of Part I of the Gazette of India, dated 21st May, 1982.

GRIEVANCES OF THE PUBLIC AGAINST THE BENGAL AND NORTH WESTERN RAILWAY.

206. Pandit Satyendra Nath Sen: (a) Has the attention of Government been drawn to the letter of Rai Sahib Madhusudan Das, an Honorary Assistant Collector of Gorakhpur, appearing under the heading "B. and N. W. Railway Future", in the column "Letters to the Editor", page 14, of the *Hindustan Times* of June 6, 1981, and in a number of other papers enumerating a large number of grievances of the public against the Bengal and North Western Railway?

(b) If so, what action were Government pleased to take to ensure the redress of these grievances?

(c) If the reply to part (a) be in the negative, what steps do Government propose to take to get a copy of the paper for necessary action?

(d) Will Government please state:

(i) why so many deficiencies were allowed to exist so long;

(ii) what action is taken or is to be taken against the Railway Administration for allowing them to exist so long; and

(iii) what action they took in the past for the removal of these grievances?

Mr. P. B. Rau: (a) Government have seen the letter referred to, and have from time to time seen complaints published in other newspapers regarding certain matters on the Bengal and North Western Railway Administration.

(b) A copy of the letter has been sent to the Agent, Bengal and North Western Railway, for such action as he considers necessary.

(c) Does not arise.

(d) (i) and (ii). A report on the Bengal and North Western Railway is submitted annually by the Government Inspector of Railways, and the reports for recent years have not indicated that there are serious deficiencies in the Administration.

(d) (iii). In 1922, as a result of complaints regarding the Bengal and North Western Railway, an enquiry into the working of this railway was made by a Government Inspector of Railways at the request of the Administration. The result of that enquiry showed that the Railway

Administration were studying the convenience of the public and were willing to meet all reasonable demands. In 1928, the Agent of the Bengal and North Western Railway, together with the Agents of other Class I Railways, was asked to look into certain specific grievances of the travelling public and, since then, certain steps have been taken to improve conditions.

CANVASSING BY CLERKS FOR RETENTION OF COMPANY ADMINISTRATION OF THE BENGAL AND NORTH WESTERN RAILWAY.

207. Pandit Satyendra Nath Sen: (a) Has the attention of Government been drawn to the letter of Mr. Ram Pershad Bhalotia, published in the *Aj of Benares*, dated the 1st August, 1981, under the heading "B. and N. W. Railway"?

(b) If so, will Government be pleased to state whether the Railway clerks canvassed public opinion in favour of the retention of the administration of this Railway by its present Company?

- (c) Will Government please state:
- whether such canvassing was done with the sanction of the Government; and
 - if such propaganda was not done with the approval of the Government, what action has been taken by them against it?

Mr. P. R. Rau: (a) No.

- (b) Government are not aware that there was any such canvassing.
(c) Does not arise.

RECOGNITION OF RAILWAYMEN'S UNIONS BY RAILWAY ADMINISTRATIONS.

208. Pandit Satyendra Nath Sen: (a) Will Government be pleased to state whether the Railway Board have notified their orders, if they have passed any, to the Railway Administrations, in regard to the recognition of the Railwaymen's Unions in accordance with the recommendations of the Royal Commission on Labour?

- (b) If so, will Government please say:
- which of the Railway Administrations have carried out the orders of the Railway Board in this respect; and
 - why the other Railway Administrations have not carried them out?

Mr. P. R. Rau: (a) and (b). The recommendations in question are still under consideration and orders have not yet issued.

FACILITIES BY RAILWAY ADMINISTRATIONS TO UNIONS FOR ACCOMMODATION OF THEIR OFFICES.

209. Pandit Satyendra Nath Sen: (a) Is it a fact that the Railway Board issued orders to the Railway Administrations to the effect that accommodation should be given for the use of the offices of the unions of their employees? If so, with what result?

(b) Has any of the Administrations not carried out the orders in this respect? If not, why not?

Mr. P. R. Rau: (b) and (d). No orders of the nature referred to by the Honourable Member were issued to Railway Administrations though they were informed that the Railway Board had decided to leave it to the discretion of each Railway Administration to deal with individual applications from its recognised Union for the grant of railway quarters or building sites on railway land.

The other parts of the question do not, therefore, arise.

COMMUNAL COMPOSITION OF THE OFFICE OF THE ACCOUNTANT GENERAL, UNITED PROVINCES.

210. Khan Bahadur Haji Wajihuddin: Will Government kindly state whether the communal composition of the office of the Accountant General, United Provinces, so far as the Muslims are concerned, is as follows:

Total number of the posts.	Posts held by Mussalmans.
5 Assistant Accounts Officers	Nil.
45 Subordinate Service Accountants	Nil.
406 Clerks	32 Permanent and 11 Temporary.
11 Typists	Nil.
15 Record Clerks	3?

The Honourable Sir George Schuster: With your permission, Sir, I will deal with questions Nos. 210 to 213 together.

Enquiry is being made and complete replies will be laid on the table in due course.

CONFIRMATION OF MUSLIM CLERKS IN THE OFFICE OF THE ACCOUNTANT GENERAL, UNITED PROVINCES.

†211. Khan Bahadur Haji Wajihuddin: (a) Are Government aware that the number of the temporary clerks of the Muslim community was 34 in the experimental offices of Audit and Accounts in the United Provinces and that this number has now come down to 11 as a result of retrenchment in those offices?

(b) Are Government aware that the Auditor General has recently decided to remove the embargo on the confirmation of the temporary clerks in the office of the Accountant General, United Provinces, and that 58 such clerks will now be confirmed?

(c) Are Government aware that out of the 11 temporary Muslim clerks, only nine can be confirmed at present and that the number of such clerks belonging to the other minority communities is only five?

(d) Will Government kindly state what steps they propose to take in order to give 1/3rd share of these confirmations to the minority communities? Do they intend to re-appoint the discharged Muslim clerks and confirm them? If not, do they propose to reserve the balance of the 1/3rd posts to be substantively filled by the discharged Muslim clerks in future? Is it a fact that the total number of the clerks of this predominant minority community is very small?

† For answer to this question, see answer to question No. 210.

PROPOSED REMOVAL OF TWO MUSLIM TEMPORARY CLERKS IN THE UNITED PROVINCES ACCOUNTS OFFICE.

*212. **Khan Bahadur Haji Wajihuddin:** Are Government aware that the Auditor General has decided to remove two Muhammadan temporary clerks now serving as machinists in the United Provinces Accounts office, and to take two senior Muhammadan discharged clerks in their places? Are they aware that these two senior clerks will be treated as fresh recruits and it would not be possible to confirm them at present with the result that the Muslim community will lose two places in confirmations? How do Government propose to remedy the situation?

SAFEGUARDING OF MUSLIM INTERESTS IN THE OFFICE OF THE ACCOUNTANT GENERAL, UNITED PROVINCES.

*213. **Khan Bahadur Haji Wajihuddin:** Are Government aware that the Auditor General had decided in 1929 to stop the recruitment of the majority community in the experimental offices in the United Provinces? Are they also aware that these orders were not followed in the subsequent appointment of temporary clerks in those offices and that the number of the Muslim clerks could not be raised appreciably? Are Government aware that whatever Muslim clerks were recruited between 1926 and 1931 have now been discharged as a result of retrenchment and the door to their future recruitment has been barred by the abolition of permanent vacant posts due to the relaxation of processes of audit and accounts and the decision of the Accountant General to keep six vacant posts unfilled for the probable future reversions of the majority community clerks, now on deputation? If so, are Government prepared to take proper action to safeguard the interests of the Muslim community in the office of the Accountant General, United Provinces.

STATEMENTS LAID ON THE TABLE.

The Honourable Mr. H. G. Haig (Home Member): Sir, I lay on the table the information promised in reply to starred question No. 1048 12 Noon, asked by Mr. K. C. Neogy on the 28th September, 1932.

ASSOCIATION OF FEMALE CIVIL DISOBEDIENCE PRISONERS IN JAIL WITH PROSTITUTES, ETC.

*1048. (a) The usual practice is as far as possible to keep female civil disobedience prisoners separate from other female prisoners, and in the majority of the provinces there have been no complaints such as are referred to. In two provinces only complaints have been made. It must be understood that it is not always possible, owing to lack of jail accommodation, to provide for separation of C class female civil disobedience prisoners from other female prisoners.

(b) A copy of the Committee's report was received by the Government of Bombay. The suggestion that it was the policy of Government to force female political prisoners into association with undesirable characters is entirely without foundation.

†For answer to this question, see answer to question No. 210.

STATEMENTS LAID ON THE TABLE.

Mr. G. R. F. Tottenham (Army Secretary): Sir, I lay on the table:

- (i) the information promised in reply to starred question No. 884 asked by Sirdar Sohan Singh on the 26th September, 1932; and
- (ii) the information promised in reply to starred question No. 1020 asked by Mr. K. C. Neogy on the 28th September, 1932.

APPOINTMENT OF A MEMBER OF THE LAHORE CANTONMENT BOARD AS THE EXECUTIVE OFFICER.

*834. (a), (b) and (c). An officer of the Cantonments Department had already been appointed by Government as Executive Officer of the Lahore Cantonment Board when the resolution was moved at the meeting of the Board on the 30th April, 1932. The mover of the resolution was apprised of the fact by the President, and the officer appointed was present at the meeting of the Board. As the mover declined to withdraw the resolution, it was necessary for the official members to oppose it.

SITE FOR STATIONING OF A BATTALION OF BRITISH TROOPS AT DACCA.

*1020. (a) Yes.

(b) Deputations from the Bar Association and the Hindu Sabha suggested alternative sites to the District Magistrate, who however found them to be unsuitable. A wire fence and a screen have been put up so that the camp will in no way interfere with the resort of men or women to the temple; and the local civil authorities are satisfied that the site selected is the only suitable site available.

Mr. P. R. Rau (Financial Commissioner, Railways): Sir, I lay on the table:

- (i) the information promised in reply to unstarred question No. 65 asked by Mr. N. M. Joshi on the 27th September, 1932;
- (ii) the information promised in reply to parts (ix) and (x) of starred question No. 789, asked by Khan Bahadur Haji Wajihuddin on the 26th September, 1932;
- (iii) the information promised in reply to unstarred question No. 124 asked by Sir Zulfiqar Ali Khan on the 27th September, 1932;
- (iv) the information promised in reply to starred question No. 787 asked by Khan Bahadur Haji Wajihuddin on the 26th September, 1932;
- (v) the information promised in reply to starred question No. 552 asked by Mr. Muhammad Anwar-ul-Azim on the 21st September, 1932;
- (vi) the information promised in reply to starred question No. 304 asked by Mr. Goswami M. R. Puri on the 16th September, 1932; and
- (vii) the information promised in reply to unstarred question No. 73 asked by Mr. N. M. Joshi on the 27th September, 1932.

COMMERCIAL DEPARTMENT OF THE GREAT INDIAN PENINSULA RAILWAY.

65. (a) Yes.

(b) Qualified officers of the Commercial Department are transferable to the Transportation Department and *vice versa*, but generally such transfers are avoided. Subordinate staff are not ordinarily transferred from one department to another.

(c) and (d). The question has been investigated by an officer on special duty whose report is under the Railway Board's consideration. If it is decided to make any change in the existing organisation, the legitimate interests of the officers affected will receive proper consideration.

AMOUNT RECOVERED FROM PASSENGERS BY TRAVELLING TICKET EXAMINERS.

*789. (a), (ix) and (x). Information in regard to the number of cases dealt with by the travelling ticket examiners on journals and the amount recovered by the staff and of the number of cases made over for prosecution is not available for periods anterior to December, 1931. The following figures relate to the period from December, 1931, to May, 1932:

Cash realised.		Made over for prosecution.		Total.	
No. of cases.	Amount.	No. of cases.	Amount.	No. of cases.	Amount.
	Rs. a. p.		Rs. a. p.		Rs. a. p.
154,424	2,03,710 1 3	20,841	42,784 0 3	175,265	2,46,494 1 6

Information is not now available in regard to the amount recovered through the Court or the amount written off.

RETENTION OF THE POST OF OFFICE SUPERINTENDENT OF CONSTRUCTION, NORTH WESTERN RAILWAY.

124. (a) The clerical strength of the several Branches of the Headquarters Office varies from 51 to 219 clerks. In Divisional offices the total numbers vary also from 83 to 261.

(b) A year ago 60 men were employed in this Branch.

(c) Yes.

(d) Yes.

(e) There are 21 clerks employed at present.

(f) and (g). The Agent reports that the post of Office Superintendent, Construction, has been converted to Superintendent, Construction, Works Branch. The question of the abolition of the post or of reduction of its scale of pay in order that the pay may correspond to the duties now attached to it is being taken up by the Railway Board with the Agent.

PAY OF TELEGRAPH INSPECTORS OF THE AMALGAMATED EAST INDIAN AND OUDH AND ROHILKHAND RAILWAYS.

*787. (a) The scale of pay of Telegraph Inspectors under the East Indian Railway Company was Rs. 250-10-350 and on the late O. and R. Railway Rs. 210-10-300. The scale of pay after amalgamation is Rs. 210-10-300 per mensem.

(b) It is not a fact that after amalgamation the pay of the East Indian Railway Inspector was raised. The jurisdiction of the Inspector was curtailed due to the Jubbulpore and Delhi-Umballa-Kalka sections being taken away from the East Indian Railway.

(c) The total number of Telegraph Inspectors on the East Indian Railway now is three. The jurisdiction of each extends over two divisions. The length of a division varies between 852 to 1,013 miles.

(d) The telegraph check office is in direct charge of a Telegraph Superintendent who works under the administrative control of the Chief Operating Superintendent on the North Western and East Indian Railways, the Chief Transportation Superintendent on the Great Indian Peninsula Railway and the Traffic Manager on the Eastern Bengal and Burma Railways.

RETRENCHMENT IN THE ASSAM BENGAL RAILWAY.

*552. Since 1930, the Assam Bengal Railway have retrenched 27 clerks and 241 menials of whom 7 clerks and 90 menials were Moslems. 25 clerks and 146 menials have been reappointed of whom 6 clerks and 53 menials are Moslems.

CREW STAFF OF THE GREAT INDIAN PENINSULA RAILWAY.

*304. (i) The total number of Crew Staff on the Great Indian Peninsula Railway is as shown below:

Senior Scale Officer	..	..	..	..	1
Subordinate Staff	..	..	..	..	238
Menials	..	..	..	..	32
Total	..	..	..	..	271

(ii) The total expenditure towards the maintenance of the above staff during the year 1931-32 was Rs. 1,88,167.

(iii) The total income of the Great Indian Peninsula Railway in 1931-32 was 11.68 crores.

MONTHLY COST OF THE TICKET CHECKING STAFF, ETC., ON THE GREAT INDIAN PENINSULA RAILWAY.

73. (a) The total monthly cost including pay and allowances of the staff referred to is Rs. 36,053.

(b) The cost in 1931-32 was Rs. 1,88,167 per annum. The mileage is 428.

(c) The administration reports that the approximate financial gain to the railway from the introduction of the Crew System to April, 1932, was Rs. 5,55,162. This does not include any additional earnings from through traffic and foreign traffic, that is to say from a station short of the crew area to a station beyond the crew area and *vice versa* in through traffic, and from a station on the crew area to a station on a foreign railway and *vice versa* in foreign traffic, as such figures are not available.

(d) On certain sections of the Eastern Bengal Railway.

RESOLUTION RE TRADE AGREEMENT SIGNED AT OTTAWA.

The Honourable Sir Joseph Bhore (Member for Commerce and Railways): On behalf of the Committee appointed by this House to report on the Trade Agreement entered into between the British and Indian Delegations at Ottawa, I would ask the permission of this House for an extension of the time laid down for the presentation of its report. I would point out that, despite every effort on the part of the Committee, it has been found impossible to complete that report by today, and, therefore, with your permission, I would move that the time for the presentation of the report be extended until Monday, the 28th instant.

The motion was adopted.

THE CRIMINAL LAW AMENDMENT BILL.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Further consideration of the Ordinance Bill and the amendments moved thereon.

Mr. Gaya Prasad Singh (Muzaffarpur cum Champaran: Non-Muhammadian): When I was speaking on the last occasion I made a few observations on the way in which some of the Ordinances promulgated by the Governor General from time to time were being misused, and I quoted a few illustrations at random in support of my contention. It is not my purpose on the present occasion to dilate any further on the point. I will, with your permission, offer just a few comments on some of the provisions of the Bill which we are now considering.

I was referring on the last occasion to the provisions embodied in clause 4 of the Bill. It relates to what has been termed as the boycott of public servants. I endeavoured to point out that the clause, as drafted, was very comprehensive and was liable to abuse in many ways. I should like to skip over some of the intervening provisions of the Bill, and to make just a passing reference to clause 7. Clause 7 runs as follows:

"Whoever with intent to cause any person to abstain from doing or to do any act which such person has a right to do or to abstain from doing, obstructs or uses violence to or intimidates such person or any member of his family or person in his employ, or loiters at or near a place where such person or member or employed person resides or works or carries on business or happens to be, or persistently follows him from place to place, or interferes with any property owned or used by him or deprives him of or hinders him in the use thereof . . ."

That is sub-clause (1) of clause 7. Now, I quite agree that there must be a provision to deal with intimidation or forcible interference with the right of any individual to pursue a rightful course, but I fail to understand why a mere loitering at or near a place where a person carries on business should be deemed to be objectionable. This was the clause which we wanted to delete in the Select Committee, and over which a storm of controversy was raised, which led to our walk out. I am not referring to that episode now, but I will only point out that, situated as we are, when we have no power to determine our fiscal policy, it should be quite open to us to persuade persons by peaceful means in the propagation of Swadeshi or the advocacy of temperance. Now, this clause, as it stands, is a standing

menace to the liberty of persons who are interested in the promotion of indigenous industries or in the cause of temperance. I will just recall I am not going to refer in detail, but I will make a passing reference, how laws had been promulgated, orders were passed from time to time by the East India Company and their successors throttling the nascent industries of this country. I am reading from a letter from the Court of Directors to Lord Clive, dated May, 1756. It is stated as follows:

"We think the vast fortunes acquired in the inland trade have been obtained by a scene of most tyrannic and oppressive conduct that ever was known in any age or country."

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Is it the Honourable Member's contention that, if the Bill is passed, such things will happen now?

Mr. Gaya Prasad Singh: My contention is this, that it does not lie in the mouth of a Government whose predecessors enacted laws of such nature to come and object to peaceful persuasion by Indians who are honestly trying to improve the industries of their country. If the Government of India give us the power to regulate our own tariff duties and our own tariff laws, there will be no need for peaceful persuasion, if the Assembly has got the power to enact a law imposing prohibitive duties on the import of Lancashire goods. But we have seen that what is termed the Ottawa agreement puts obstacles in our way of whatever little freedom we had or whatever little opportunity we had for improving the nascent industries of this country. In imposing their trade on this country, they had to resort to methods which I can only describe as tyrannical, oppressive and disgraceful. In that view of the matter, I feel that I am justified, if you do not rule me out of order, in making a passing reference to the methods which they themselves and their successors have imposed upon this country in order to improve the industry and commerce of England with this country. That is my contention. I will only refer to a short paragraph from a book which is called "Consideration on Indian Affairs" by Bolts, and I will close this part of my observation:

"Inconceivable oppressions and hardships have been practised towards the poor manufacturers and workmen of the country who are, in fact, monopolised by the Company as so many slaves . . . Various and innumerable are the methods of oppressing the poor weavers . . . such as by fines, imprisonments, floggings, forcing bonds from them, etc., by which the number of weavers in the country has been gradually decreased . . . every kind of oppression to manufacturers of all denominations throughout the whole country has daily increased in so much so that weavers for daring to sell their goods, and dala and paikars for having contributed to, and committed at, such sales have, by Company's agents, been frequently seized and imprisoned."

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order. The Honourable Member is going on reading about something which happened 150 years ago. It is difficult to see what relevance it has to the present Bill. If it is the contention of the Honourable Member that if this Bill is passed, it will bring about all those evils he is reading about, then he would be relevant.

Mr. Gaya Prasad Singh: What I was submitting is this. Under clause 7, peaceful picketing, I would myself use the expression peaceful persuasion, is going to be penalised, and my contention is that the Government of

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India or their forefathers, the East India Company, went out of their way in imposing tyrannical laws with the express purpose of throttling the industry of this country and forcing down the commerce of their country upon the inhabitants of India. But I shall bow to your ruling and I will not make any reference to the past history of India which is disgraceful to the East India Company and their successors. I would draw a veil over that part of the history, because it is unsavoury reading.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member does not seem to have understood the point that the Chair has made. If his contention is that penalizing peaceful picketing will be prejudicial to Indian industries and that the development of Indian industries will be adversely affected thereby he can relevantly argue that point, but it is not in order to read about things which happened in the time of the East India Company. His Majesty has taken over the administration of India. There were no legislatures in those days. Central and Provincial Legislatures have been constituted and Government have come before the Assembly for the passage of this Bill. Every Honourable Member is entitled to criticise the measure and vote against it. The Chair wishes to point out that he can relevantly argue that this penalizing peaceful picketing is prejudicial to the economic, industrial and other interests of India and therefore he wishes to oppose the Bill.

Mr. Gaya Prasad Singh: I was merely trying to give a historical retrospect of the way in which the commerce of a foreign nation has been imposed upon this country and, it was with that view, that I started with that remark.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The House is discussing this Bill, not the history of British rule in India. Will you please go on?

Mr. Gaya Prasad Singh: My submission is this, that peaceful persuasion or peaceful picketing is a method recognised throughout the whole world and it should not be made penal and it was with that view that I was quoting from the past history of India.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Surely the Honourable Member need not go on repeating it. He can clearly see that there is no connection between what happened 150 years ago and present day conditions. The Honourable Member is perfectly entitled to speak, as strongly as he likes, on the question of peaceful picketing. It is no use arguing the matter further. Will you please deal with this aspect of the question now.

Mr. Gaya Prasad Singh: Now, Sir, I was submitting that peaceful persuasion has been recognised as a legitimate means for improving the industry of a country and I strongly object to the clause which prevents peaceful picketing, the sentence beginning with "whoever loiters or does any similar act", and so on. Now, the explanation which is attached to the clause is merely an attempt to throw dust in the eyes of the Members

of this Legislature and of the public outside. What the explanation says is that encouragement of indigenous industries or advocacy of temperance, without the commission of any of the acts prohibited by this section, is not an offence under this section. Nobody contended that anything which does not come within the clause of any penal provision can be construed into an offence, and, therefore, it was absolutely superfluous on the part of the framers of this clause to have embodied this explanation which is at once meaningless, absurd and does not advance the cause. I now come to clause 11 which gives the authorities the power of declaring an association to be an unlawful association. With regard to that, the last time I was speaking I gave a few instances to show that this arbitrary power, which was given under the provisions of the Ordinance to the authorities, has been grossly abused, and, therefore, there is no justification for coming forward to ask for the conferment of similar powers in this Bill, and I quoted the names of certain associations in Bombay, where apparently legitimate bodies or associations have been declared to be unlawful. I will now come to clause 16 which seeks to impose restrictions upon the Press. I will in this connection refer to the way in which the Press Ordinance has been misused in the past. I will not multiply instances, but I will refer to only one which happened in Madras. A notification was issued in February last which says:

"The attention of the Government has been drawn on several instances to the publication in newspapers of the portraits of well-known leaders connected with the civil disobedience movement. The publication of such pictures tends to encourage the movement and is likely, therefore, to fall under clause (f) of sub-section (1) of section 4 of the Indian Press Emergency Powers Act of 1931 as amended by the Emergency Powers Ordinance of 1932. The Government wish it to be clearly understood that in future they will be constrained to consider the necessity of demanding security under that Act in respect of the printing and publication of such photographs."

In a word, it means that the reproduction in a newspaper of the portraits of such eminent personages, national heroes if I may call them, like Mahatma Gandhi, Pandit Motilal Nehru, Pandit Madan Mohan Malaviya and others will be deemed an infringement of the provisions of this section and the newspaper will be penalised in consequence. I contend that the power sought to be taken under sub-section (f) of this clause and other sub-sections is unwarranted and it has been abused in the past and there is no justification for this House to confer a similar power upon the local executive authorities.

Sir, this Bill, even as it has emerged out of the Select Committee, is open to so many abuses that I am not prepared to give my support to it. On the last day, Sir, I referred to that aspect of the question which seeks to put down the civil disobedience movement. I have heard numerous speeches in this House on the virtues of co-operation. I am one of those who myself believe in the virtue of co-operation, but the co-operation must be on honourable and equal terms. There cannot be a co-operation between a slave and a free man. It must not be like the co-operation between what may be called the football and the booted leg. The more the football comes at the feet, the more vigorously it is kicked off. Look at the condition of those gentlemen who are called Moderates and Liberals. What has been the reply given by the Government to the demands put forward by them? Let me for a moment put aside the case of the Indian National Congress. Have Government honestly tried to give effect to the suggestions made from time to time by what is known as the moderate school of politics,

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with its creed of co-operation? These people have been utilised by Government to suit their own purpose and thrown away after their purpose has been served, like a squeezed lemon.

Sir, I am opposed to the very inception of this Bill. The provisions of this Bill have been subjected to very scathing criticism from distinguished Members on this side of the House like my Honourable friend, Sir Abdur Rahim and many others, and it is not, therefore, necessary to enter into greater details with regard to the Bill. Sir, with these few words I oppose the motion made by my Honourable friend, the Home Member. (Cheers.)

Mr. Arthur Moore (Bengal: European): Sir, I do not wish to say very much about this Bill, because my friend, Sir Leslie Hudson, has made it clear that we have no hesitation in supporting it. We have no hesitation, but, at the same time, we have in general no enthusiasm for measures of this kind. I regard this Bill as the inevitable consequence of civil disobedience. My friend, Sir Abdur Rahim, and some other speakers have based their objections largely on the argument that its provisions were liable to abuse. Sir, I freely grant that any measure of this kind, which confers such wide powers on the executive, could be abused. But I doubt if there is a single soul in this Assembly who really in his heart of hearts believes that what is called the ordinary law is capable of dealing with a revolutionary movement such as the civil disobedience movement was and is; and I have no doubt at all that in any country in the world—in Great Britain or Ireland or France or Germany or Italy or the United States,—any movement attempting to paralyse the Administration would be met, as in fact it has always had to be met, by resort to measures of this kind. A Government has no choice: either it has got to abandon its duty of defending itself and the State and the people, and to permit a revolution and a descent, when you are facing a movement of this kind, into chaos, or it has got to resort to measures of this character.

The only argument of substance I have seen brought against this Bill is that, in the form of an Ordinance, it has already been so successful that there is no longer any need for it. That is the argument used by the dissentient members of the Select Committee, who quote with approval His Excellency's statement in September that the mass of the people is no longer concerned with civil disobedience. My friend, Diwan Bahadur Rangachariar, took the same line. He admitted that there was some justification for the provisions of this Bill, but he went on to congratulate the Government on the success of their measures so far and he pleaded that the state of the country was now not so grave, and, like Mr. B. Das in a recent speech, he urged that there was a general spirit of co-operation now abroad. He pointed to the recent utterances of Mr. Rajagopalachariar, the President of the Congress. Now, Mr. President, it seems to me that this argument used by the dissentient members of the Select Committee and by my friend, the Diwan Bahadur, is a complete justification of the Government's action. I too believe, there is a better atmosphere, but would we be justified now, when things are improving, in taking the risk of plunging back into the abyss from which we are escaping? Let us remember that we have not been asked to pass this legislation for all time. Some Members suggested that the Council of State would be a difficulty. We must remember that what we are asked to do is to pass this measure for the transitional period, and that it will automatically lapse at the end

of three years, unless the Government of the day, which will be, we hope and believe, a Government after the next reforms have been inaugurated, take the initiative of asking for a prolongation of the measure. That is a situation which we hope will not arise, and it is only in order to secure an increasing measure of that tranquillity which we see returning, that we are asked to pass this Bill. Sir, the Diwan Bahadur let fall one pessimistic sentence. He said that the spirit of the country was being killed. Well, I have often heard exactly the opposite argument used on those benches. For my own part I do not for a moment believe that the true national spirit of the country is being killed. On the contrary, I believe that now that the tyranny of the Congress is no longer exerted, a constructive spirit of nationalism is being displayed, and I note with the greatest pleasure that a more constructive spirit of nationalism is being displayed by some of the Congress leaders themselves.

Sir Abdulla-al-Māmūn Suhrawardy (Burdwan and Presidency Divisions: Muhammadan Rural): Sir, the long and numerous speeches in opposition to the motion moved by the Honourable the Home Member have afforded me some justification for intervening in the debate at this stage. By the froth and foam and sound and fury of their speeches, some of the Honourable Members have attempted to cloud the real issue before the House which appears to have receded into the background.

There are three issues before the House: the original motion of the Honourable the Home Member and the two amendments to that motion. Listening to the speeches one would imagine that the House was at the stage of the third reading of the Bill, and that the question before the House was that the Bill, as amended, be passed. One is apt to forget that the simple question before the House is that the report of the Select Committee be taken into consideration.

Now, as regards the amendments, there is one amendment to the effect that the Bill be sent back to the Select Committee. I should have welcomed the amendment, were I to take it as an indication of the dawn of wisdom and of the realisation of the folly of the walk-out. But there is no indication of regret or of penitence from those gentlemen who have been actually responsible for the walk-out and I do not know what useful purpose would be served by the recommittal of the Bill to the same Select Committee. The amendment may be a gesture on the part of the Mover of the amendment of confidence in the Chairman of that Committee and in the character and composition of its members.

Mr. Goswami M. R. Puri (Central Provinces: Landholders): I rise on a point of explanation, Sir. When I moved my amendment, it was not my contention in the least to indicate any expressions of no confidence in the Chairman of that Select Committee. That was not my view while I moved my amendment. My view in moving the amendment was to find out a *via media* and to come to a compromise and nothing else.

Sir Abdulla-al-Māmūn Suhrawardy: Sir, I am glad of the explanation given by my Honourable friend. I never suggested that that was not his intention. He has full confidence in the Chairman of the Select Committee; so have I. He has full confidence in the character and composition of the Committee; so have I. He only wanted the Bill to be sent back to the self-same Select Committee and he had indicated in his speech, if I remember rightly, that his object was that some opportunity might

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be afforded to the members who had walked out to adjust their differences with the Chairman or with other members of the Committee. But, as I said, there is no expression of regret or penitence or any sign of reconciliation or of an extension of the olive branch on the part of the gentlemen who walked out. Therefore, the simple result of the recommittal of this Bill to the Committee would probably be to afford those gentlemen another opportunity for a walk-out and we are not prepared to waste the time of the House and put a premium on walks-in and walks-out.

Then, there is the other amendment of my Honourable friend, Mr. Sadiq Hasan. It required the courage—I had almost said the hardihood—of Mr. Sadiq Hasan to bring in an amendment for the circulation of the Bill for eliciting public opinion thereon after “the overwhelming defeat”—I am quoting almost his words—inflicted on him when his motion for circulation was rejected in the Simla Session. Now, his object is, he says, to elicit public opinion. I had listened carefully to the depressing speech of Diwan Bahadur Rangachariar and I had taken the trouble of taking down almost his very words. He said in his speech that there was intense political depression almost unprecedented in the country. People were afraid to give expression to their frank views. If that is the condition of the country, whatever be the causes, what useful purpose will be served by asking to circulate the Bill for eliciting public opinion thereon? I would also like to read to the House the opinion of a well-known gentleman, “the Indian Contributor” to the *Statesman*, who, while criticising the wisdom of the Government of Bengal, in imposing a collective fine of Rs. 80,000 on the Hindu inhabitants of Chittagong, remarked:

“As Indians, many of us are in a position to assure the Government that people in general have nothing but abhorrence for the terrorist crimes, and they would do anything to help the Government to end terrorism if they could do so without endangering the lives of themselves and their dear ones.

The history of the terrorist movement for the last twenty-five years shows that desperate young men, who are out to kill people, have no regard for the life of any one. Past experience shows that they do not hesitate to kill any one who either stands in their way or tries in the slightest degree to baffle their intentions. They have killed scores of their countrymen, official and non-official . . .”

Mr. Gaya Prasad Singh: I rise to a point of order, Sir. What has this Bill got to do with the terrorist crime?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): This Bill is intended not only to deal with the civil disobedience movement, but has reference to terrorism also.

Diwan Bahadur Harbilas Sarda (Ajmer-Merwara: General): Sir, if I remember aright, the Honourable the Home Member distinctly stated in the Simla Session that this Bill had nothing to do with the terrorist movement and that it was aimed entirely and solely against the civil disobedience movement.

The Honourable Mr. H. G. Haig (Home Member): May I explain the position, Sir. I said in the Simla Session that the Bill was aimed at the civil disobedience movement. I also did say that certain provisions relating to the control of the Press would have a most important effect in curbing the terrorist movement.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): My impression is Honourable Mover said in Simla that he was dealing with three things—communist tendencies, terrorism and civil disobedience movement.

The Honourable Mr. H. G. Haig: I was giving a description of the country and the dangers that we have to contend with. The main intention of the Bill is to deal with the civil disobedience movement, but it will also have an effect in restraining communism and terrorism.

Sir Abdulla-al-Māmūn Suhrawardy: May I, Sir, with your permission, refresh the memory of my Honourable friend as well as of the Honourable the Home Member? So far, as I remember, and you have also remarked to that effect, the Honourable the Home Member had said that the Bill, though mainly designed to combat the civil disobedience movement, also aimed at the triple menace or the triple threat of communism, terrorism and the civil disobedience movement. He went further and also said that though, on the surface of it, the civil disobedience movement might not have anything to do with terrorism and communism, yet behind the scenes there were points of contact. Fortunately I have got a copy of his speech before me and I will do well to give the exact words of his speech:

“We have in India a triple threat to peaceful progress—civil disobedience, communism and terrorism; and though the main provisions of this Bill are directed against the first of these, I hope the House will not forget,”

—as they seem to have forgotten now,—

“that the provisions relating to the Press will exercise a strong controlling influence over the movements of communism and terrorism. Discontented elements will always tend to coalesce. Though, on the surface, these three are very different movements behind the scenes there are certain contacts.”

The Honourable Mr. H. G. Haig: I submit that exactly bears out what I said just now.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): That was my impression also.

Sir Abdulla-al-Māmūn Suhrawardy: The relevancy of this quotation, which I was making from this newspaper, lies in the fact that it will clearly show to the House that people are apt to give expression to views publicly which widely differ from their views expressed privately. People may express themselves privately against terrorism and against civil disobedience, but when “public opinion” is sought, they give expression to a wholly different opinion. When expression of “public opinion” is sought by means of a dilatory motion in the House or otherwise, then people are afraid of expressing their opinion publicly. With your permission, I will proceed with the quotation:

“It is a fact that they have absolutely no hesitation to take their own lives whenever they consider it necessary. It should, therefore, be agreed that they are a class of most desperate and determined men who have become accustomed to look upon human lives as mere toys. No wonder that they have succeeded in creating a sense of terror all over the country. It is this sense of terror, and not sympathy, as is supposed, which is responsible for preventing people coming forward openly to help the authorities in their efforts to end terrorism and so far there is nothing to enable the people in general to overcome this sense of terror.”

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The writer concludes with the significant words:

"Call the people cowards, if you will, but it is a grave injustice to brand them as sympathisers of terrorists."

People, according to my Honourable friend, Diwan Bahadur Bangachariar, are afraid of giving expression to their frank views and people are afraid of giving expression to their views, according to the Indian Contributor of the *Statesman* (November 18, 1932). What useful purpose then will be served by asking the Bill to be circulated for eliciting public opinion thereon. Now, Sir, I need not labour that point, because I have listened to the fiery speech of my Honourable friend, Mr. Ranga Iyer, wherein he exhorted this House "to bury this Bill on the floor of the House." I have also listened to the gentle and persuasive speech of the Diwan Bahadur in which he, in his own gentle way, has asked us to reject the Bill. So, I do not think there will be any support for the dilatory motion of those two gentlemen who have tabled the amendments.

There is a third motion, the original motion before the House, for taking the report of the Select Committee into consideration. Now, what was the justification of those Honourable Members, who had opposed at Simla the motion for referring the Bill to a Select Committee, for serving on the Select Committee? As I had remarked once before, the gentlemen on the Opposition Benches, though appearing never to consent, had consented to serve on the Select Committee and amongst them was my Honourable friend, Mr. Gaya Prasad Singh, who could never be accused of being, to quote his favourite phrase, "a henchman of Government". Perhaps he might be the henchman of the Congress or something else, but never the henchman of Government. We also had the honoured name of my esteemed friend, Mr. S. C. Mitra. We know how much he has suffered for his conviction and his belief. Who could accuse him of any ulterior motive or any ignoble motive in consenting to serve on the Select Committee? I need not enumerate the names of other distinguished gentlemen belonging to the Opposition who had consented to serve on the Select Committee. So far as I can understand, their object in serving on the Committee was to get an opportunity of softening the rigours of the various provisions of the Bill. If that was their justification, and, as a matter of fact, no reasonable Member of the House will deny that the provisions of the Bill have, as they have emerged from the Select Committee, been considerably modified. . . .

Mr. D. K. Lahiri Chaudhury (Bengal: Landholders): Then, why did they walk out of the Select Committee?

Sir Abdulla-al-Māmūn Suhrawardy: My Honourable friend, Mr. Mitra, has not spoken yet and if he cares to do so, he will speak out his reasons. But I have before me his Minute of Dissent in which he has said why he walked out.

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions: Muhammadan Rural): Because he was in bad company.

Mr. Amar Nath Dutt (Burdwan Division: Non-Muhammadan Rural): He was your pupil.

Sir Abdulla-al-Māmūn Suhrawardy: But he is now the master of: the leader of Mr. Dutt and many other leaders of the Opposition. I have had the honour of being his master and I need not at all be ashamed of having had the honour of being the teacher or master of a man like Mr. S. C. Mitra.

Mr. B. K. Puri (West Punjab: Non-Muhammadan): Then, you seem to have taught him something quite different.

Mr. K. Ahmed (Rajshahi Division: Muhammadan Rural): What did you teach him?

Sir Abdulla-al-Māmūn Suhrawardy: I taught him the value of conciliation and co-operation and respect for law and order and also "Rule of Law" and Dicey on the Laws and Customs of the Constitution which Honourable Members on the Opposition Benches are so fond of flaunting before the House.

Mr. Amar Nath Dutt: Were you not a Swarajist when you were a Member of the Bengal Legislative Council?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): These frequent interruptions by those Honourable Members who hold views different from the Honourable Member who is addressing the House must be deprecated. The Honourable Member should be allowed to proceed with his remarks in his own way.

Sir Abdulla-al-Māmūn Suhrawardy: I was a Member of the Bengal Legislative Council in 1910 and it is a well-known fact that since then I had been a Member of that Council long before the birth of the Swaraj Party, and, later, I joined the Swaraj Party when the late lamented Mr. C. R. Das was its leader and it was the tyranny of the Congress, its interference with one's liberty of action in private affairs and personal matters that led me to sever my connection with it. It was not through any ulterior or ignoble motives that I joined or left the Swaraj Party. My Honourable friend, Mr. Mitra, will bear me out and tell you what immense sacrifices I made when I joined the Swaraj Party. It was on account of petty tyrannies—I do not wish to enter into details, because the names of gentlemen, whom all of you are now applauding and holding up as the greatest embodiment of non-violence, will have to be dragged in—it was because of the aggressive violence of gentlemen who preach non-violence which made me decide to have nothing to do with saints. (Applause.)

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Will the Honourable Member proceed with his observations on the Bill?

Sir Abdulla-al-Māmūn Suhrawardy: My reply has also some relevancy to the tyranny of the Congress and the pseudo-sympathisers of the Congress.

I was saying, Sir, that the reason why my Honourable friend, Mr. Mitra, agreed to serve on the Select Committee was apparently that he thought that it offered him an opportunity to soften the rigours and harshness of the various provisions of the Bill. The opportunity which he sought for himself, would he deny that opportunity to the Members of the

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House? Why should he now at this stage—he and his friends—ask us to reject the Bill? The simple motion before the House is that the report of the Select Committee be taken into consideration. I am reading from their Minute of Dissent, wherein they themselves say: "rather than try and convince an unwilling majority, we will prefer to urge our views before the Assembly". In another place they say:

"As we propose to move our amendments to the Bill in detail on the floor of the House, we do not feel inclined to discuss the clauses."

So they themselves have been looking forward to the opportunity of coming to the House where probably they are not so evenly balanced as they were in the Select Committee. They complained also of the composition of the Select Committee and they say that the two parties in the Select Committee were "evenly balanced, seven against seven". Were I to criticise the composition of the Select Committee, I would say that out of the seven, against the seven of the Opposition, the Honourable the Home Member being in charge of the Bill had to be there, the Law Member had to be there as, without him, you could not discuss an important measure like this; the European Group had one representative; the United India Party had one representative. Leaving them out, who were the representatives of the large number of unattached Members? Even the Mussalmans from Bengal, from Chittagong, Midnapore and other districts of Bengal, had no opportunity of being on the Select Committee. But I am not going to criticise the composition of the Select Committee. If they were evenly balanced in the Select Committee, here they have on the floor of the House an opportunity to put forward their amendments which they themselves were looking forward to doing. Why then say, reject the motion for taking the report of the Select Committee into consideration? Sir, I think I have said enough in support of the motion of the Honourable the Home Member. I will now take up one or two points and make a few general observations, because a good deal has been said about the various clauses of the Bill by various gentlemen. First of all, I find in the Note of Dissent written by these five members that they begin by saying:

"The chief aim of the Government, as it seems from the Objects and Reasons of the Bill, is to crush the Civil Disobedience movement in all its forms in the country. We do not see eye to eye with the Government";

—and then they proceed to quote from His Excellency's speech dated 5th September, 1982—

"The no-rent campaign in the United Provinces has died away, and the Red Shirt movement in the North-West Frontier Province was rapidly brought under control; over the greater part of India the mass of population is no longer concerned with Civil Disobedience movement."

They quote this with approval and they go on to say that the civil disobedience movement is on the wane in spite of the statement made by a certain Member, "completely clad in foreign clothes," that it was at its zenith. But never mind what he had said. These gentlemen say that the civil disobedience movement is on the wane, the civil disobedience movement is declining; why then have this piece of legislation? I should like to inquire how has the civil disobedience movement been controlled and why is it on the decline? Has the great Mahatma lost faith in what he considers to be an article of faith, or is it due to the powers which the

executive obtained by means of Ordinances to control the movement? This piece of legislation is described as a gross piece of legislative impertinence by those very gentlemen who themselves had invited the Honourable the Home Member to introduce this piece of legislation. Unless their invitation was a gross piece of hypocrisy, I do not know how this has become a gross piece of legislative impertinence. Anyway, if the movement is controlled by the provisions of the Ordinances, then there is justification for this piece of legislation being brought into the House for consideration.

Now, there is a good deal of discussion about peaceful persuasion dealt with in clause 7. And, in the Note of Dissent, our friends say that they want an explanation to the clause worded as follows:

"Peaceful persuasion or inducement which does not or is not calculated to involve any obstruction, violence, intimidation, annoyance or alarm to any person does not come within the purview of this section."

What peaceful persuasion is and what peaceful picketing is, no one has attempted to explain. My friend, Mr. Gaya Prasad Singh, carried away by the exuberance of his enthusiasm for peaceful picketing, or otherwise, gave instance after instance of the abuse of the provisions of the Ordinances. But, may I be permitted to give a few instances of the abuse or the right use of peaceful picketing? He has also exclaimed, in moments of enthusiasm, have we not the right to close our shops? I will also ask, has not my friend, Pandit Sen, the right to close his temples? I also remind the House.

Mr. B. E. Puri: A shop is private property, while a temple is not.

Sir Abdulla-al-Māmūn Suhrawardy: Temples are also private properties. My friend, Pandit Sen, was not long ago in a state of great excitement and asked for Government protection against forcible temple entry and expressed his resentment against satyagraha. What is satyagraha? Ardour for the truth. Satyagraha has been performed by those gentlemen who profess to be peaceful picketers; and, yet, against satyagraha my friend, Pandit Sen, protested not long ago.

Pandit Satyendra Nath Sen (Presidency Division: Non-Muhammadian Rural): Because it is against the established usages of the country.

Sir Abdulla-al-Māmūn Suhrawardy: Of course there are forms of peaceful picketing which perhaps I myself might welcome. There was an occasion not very long ago when I was the recipient of gentle attention from a number of peaceful picketers. One fine morning I found my bedroom besieged by a bevy of fair picketers in Simla whose simple request was, first of all, to ask for permission to enter my room, and their second request was that I should not go to the Assembly. I was willing, and, with the greatest pleasure, I acceded to their request, because as an indolent and lazy Member of this House who never cared to attend a meeting of the Assembly, any pretext would have done for me; and also because I would have liked to prolong that mild form of peaceful persuasion or political flirtation. But I never realised the grave danger which I was running, because, later on, I discovered that it was a grave danger to domestic

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peace and concord and I had to write long letters to explain how it was that my bedroom was besieged and how I was threatened by a number of fair ladies. That kind of peaceful persuasion I do not certainly object to, but even that is fraught with grave dangers. But I will give two instances for the benefit of those gentlemen who only seek peace and harmony in picketing and who are so obsessed with the Congress and their newly-developed sense of patriotism that they do not see Chittagong, Calcutta, Benares, Cawnpore or even Midnapore where one of the Leaders of the Opposition saw the light of day, but which, from his bad eminence as Leader of the Independent Party, he disdains to see. Take the case

I P.M. of Benares. Some Congress volunteers go to a poor Muslim shopkeeper, who lives on his day's earnings by honest trade, and tell him to close his shop in obedience to a Congress fiat. The poor man cannot afford it. He pleads in vain. The picketers were not violent when they made the first request. It may be conceded that they implored with folded hands and on bended knees. Directly the poor man pleads his unwillingness, on the ground that he must earn to feed his wife and children; the Congress volunteers leave him. The next thing which happens is that the poor shopkeeper engaged in his business is visited by some strangers and stabbed to death. A riot follows and several lives are lost. This is an instance of "peaceful picketing" by Congress. Take another case. What happened in Calcutta? The Congress declared a hartal. Some picketers boarded a running tram car and asked the driver not to drive. The driver said, he had to carry out his orders. What was the result? The "peaceful picketers" set fire to the tram car and there was a riot in which there was much bloodshed and many innocent persons were the victims. Picketing, which has such potentialities, ought to be stopped in the interest of the State. Now, there are gentlemen who, with tears in their eyes, say that indigenous industries will be ruined. That is stated in the Minute of Dissent also. "Peaceful propaganda to promote Swadeshi movements is an offence." Who has ever prevented that revered and respected leader of the Swadeshi movement, Sir P. C. Ray? Nobody has put a stop to his chemical activities. Nobody has ever questioned him as to whether those activities were directed to the discovery of high explosives, and nobody has prevented him from touring all over India, going through the length and breadth of the land preaching Swadeshi—not even the Government of Bengal. So there are instances of real peaceful preaching of Swadeshi unmolested and instances of "peaceful picketing," which, in the dictionary of the Congress, may mean something, but in ordinary parlance means molestation and is a euphemism for violence. Let there be no confusion of ideas; let us not confound patriotism with peaceful picketing and interference with the liberty of individuals—with licence to destroy the very foundations of liberty. I find in the same Minute of Dissent that there should be no law depriving the Press of its liberty or punishing the parents for the sins of their children. As regards the Press, it should be borne in mind that experience has taught us that the protracted method of prosecution for, say, sedition is not effective to control the illegal activities of the Congress. What happens when a prosecution is launched? After a long trial which, under the ordinary procedure, can be indefinitely protracted, and after appeal and revision, the offender is sent to jail. Who is he? Not the real offender, but the "jail editor". Who does not know that most of the

Congress papers have "jail editors" who are dummies and men of straw who are compensated and whose families are maintained, during imprisonment, with Congress funds? The only effective way to deal with the irresponsible press is to go for the press and not for a fictitious person who poses as a patriot or a hero afterwards.

A good deal has been said about punishing parents for the sins of their children. This is also an instance of confusion of ideas. It is not the case of punishing parents for the sins of their children. It may be punishing parents for the sins of being parents of children whose care and proper education they neglect; and this is not a doctrine unknown to law. Such Honourable Members, as have studied and understood the basic principles of the relation of master and servant, of guardian and ward, of parent and child, to them it will not be a matter of surprise if parents are held responsible, under certain conditions, for the sins of their children. We all know and, I am sure, the gentlemen who have signed the Note of Dissent very well know how a master is held responsible for the tort of his servants. This is not a doctrine of vicarious punishment..... (Interruption.) I do not say it is a case of tort: I say it is an illustration of what you may call, if you like, the doctrine of "vicarious punishment".

Mr. Lalchand Navai (Sind: Non-Muhammadan Rural): An appropriate illustration, I believe.

Sir Abdulla-al-Māmūn Suhrawardy: I will give a more appropriate illustration for your benefit. A more appropriate illustration is the absurd piece of legislation under which you punish a father for the marriage of his son and the Act you have passed with the help of those very gentlemen at whom you always fling a shot or two whenever the occasion arises—the officials and the Europeans. Were I to introduce a Bill for the repeal of that absurd piece of legislation which makes a criminal offence of a lawful act, which is lawful even under the civil law, and empowers you to send the parent or the guardian to jail and subject him to fine. (Interruption.) I am using the impersonal "you" and the Chair is not so sensitive as the gentleman on my left. Now, if I introduce a Bill for the repeal of that Act, I should like the official Members and the Europeans and the much-abused Nominated Members to stand aside and let us see who represents the public opinion of the country—let us see whether the Act will be worth an hour's purchase without the help of these gentlemen.

Diwan Bahadur Harbilas Sarda: How is all this relevant?

Sir Abdulla-al-Māmūn Suhrawardy: I mean the Sarda Act, which does not represent popular opinion—it was passed in defiance of popular opinion and it was passed with the help of Europeans and officials who do not understand the spirit of the country at all, nor opinion, public or private, and the Sarda Act is an interference with the religious liberties of Hindus and Muslims.

Diwan Bahadur Harbilas Sarda: When the Child Marriage Restraint Act was passed, it was passed by a majority, if I remember aright, of 67 to 14, so that even if you eliminate the entire official block, still it had a very large majority of elected Members in its favour.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): I should like to draw the attention of Honourable Members to the fact that the House discussed the principle of this Bill in Simla for five days. That principle has remained unaltered and this is the third day of the present discussion. The Chair should like to appeal to Honourable Members to be as brief as possible in order that public business may be expedited.

Sir Abdulla-al-Māmūn Suhrawardy: I will try to be as brief as possible. I would have finished my speech long ago but for the interruptions, relevant and irrelevant, of my friends who cannot bear to hear unpalatable truths. In the concluding portion of their Minute of Dissent they say:

"The civil disobedience movement is only a means to an end. The object is to attain Self-Government. We feel that as soon as the popular demands are conceded, the movement will cease automatically."

History is repeating itself. In 1906 or thereabouts was started the Swadeshi movement, a movement whose real object was the reversal of the Partition of Bengal which had resulted in creating a province in which the Muslims were in a majority. It is significant that in that atmosphere of unrest and turmoil and agitation, was born the Bengal terrorist movement. A similar cry was heard then—"Reverse the Partition and everything will subside and there will be no terrorism in the land". Lord Hardinge's Government listened to this advice of his friends and brought about that act of greatest administrative folly, the annulment of the Partition of Bengal and the creation of this Capital of Delhi, which has resulted now in the Government being in this parlous position financially and otherwise. But you have not put a stop to terrorism. Terrorism might have gone underground; terrorism might have been dead or dormant, but terrorism is not killed. Like the civil disobedience movement of today it might have been scotched; it might have been dormant, but it is not dead. Today I hear the cry "Release the Mahatma". My friend, Mr. Ranga Iyer, roars: "Release the Mahatma". My friend, Mr. B. Das, in his gentle way, lisps: "Release the Mahattan", and if you release the 'Mahattan' everything will become quiet". But unless we accept the assumption that the Mahatma himself is responsible for all the trouble, for all the turmoil and all the agitation, that all the agitators are his emissaries who, at his bidding, will lay down their arms and declare a truce or peace, I cannot understand how the mere fact of the release of the Mahatma or even the grant of Dominion Status will bring about a change. Every movement has its history, its course of birth and growth and decline and cannot vanish automatically at any one's bidding

Mr. C. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhamadan Rural): On a point of order, Sir. The Honourable gentleman said that I used the argument for the release of Mahatma. Much as I am for the release of Mahatma, I did not use the word "release the Mahatma".

Sir Abdulla-al-Māmūn Suhrawardy: I may have confounded the Honourable Member with some one else. The long interval of four days may be responsible for my unusual lapse of memory.

Mr. C. S. Ranga Iyer: You are throughout confused. (Laughter.)

Sir Abdulla-al-Māmūn Suhrawardy: After the explanation of my Honourable friend, I apologise to him and withdraw what I have attributed to him. He may not have roared; but somebody else like him roared "Release the Mahatma". That has been the burden of the song, but certainly Mr. Das, in his gentle way, said "Release the 'Mahattan', and there will be quiet and peace in the land".

Mr. S. O. Mitra (Chittagong and Rajshahi Divisions: Non-Muhamadan Rural): I say the same thing.

Sir Abdulla-al-Māmūn Suhrawardy: My friend, Mr. Mitra, says that he will say the same thing. I know there are gentlemen who, in defiance of Congress opinion, are adorning the Opposition Benches. Their heart is breaking for the Congress and the Congress leaders, and they are shedding crocodile tears—(An Honourable Member: "Not crocodile tears"),—but they are sitting tight on their seats despite the Congress opinion or public opinion. Their own opinion becomes "public opinion" when it suits their convenience. Either the Congress represents public opinion or it does not. If it does not, then you have justification for being here. But if it does, I cannot understand how you are here. I think I should now, in deference to the wishes of the Chair, conclude my speech and say that I support the motion, which is a very reasonable motion, made by the Honourable the Home Member that the Report of the Select Committee be taken into consideration. This does not mean that when the Bill reaches the third stage, I will support its passage. I reserve my judgment till then.

Mr. S. O. Mitra: Sir, I rise

Mr. President (The Honourable Sir Ibrahim Rahimtoola): How long are you likely to take?

Mr. S. O. Mitra: I will take about half an hour.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Then you will please begin after the lunch interval.

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

The Assembly re-assembled after Lunch at Twenty Five Minutes Past Two of the Clock, Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

Mr. S. O. Mitra: I am opposed to the main motion that the Select Committee's report be taken into consideration. Sir, we have been taken to task why we agreed to be members of the Select Committee. When I had an opportunity to make my views known, I made it clear to the House that I was opposed to all the principles that were involved in this Bill. If, even after this, the House, with its eyes wide open, in its

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wisdom, selected me as one of the members of the Select Committee, all I can say is that I am not to blame. As regards the principles to which it is said we are committed after reference of the Bill to Select Committee, I am in very great difficulty. I do not know even now what are the real principles underlying this hydra-headed piece of legislation. There are provisions in this Bill dealing with public servants as if they were depressed classes. There I find the principle of the bureaucracy. Then there are provisions in this Bill for annexation of immovable property, and there one can find the principles of Imperialism. There are provisions for confiscating private property; that may be attributed to commercial principles. Then there are other provisions for suppressing the Press and bullying the public and there, we find, despotic principles. Lastly, there are provisions for punishing the father for the sins of his son there I find the Christian principle of vicarious suffering. So, if I am asked even now what are the principles to which the House stands committed, I am in great doubt. As regards the practice in the House of Commons, I would like to refer the House to a few passages in that well known book, May's Parliamentary Practice. I refer to page 412 where it is said:

"A committee can negative every clause of which the Bill committed to them is composed, and can substitute for those clauses new clauses, if relevant to the Bill, as read a second time, and otherwise in order."

So, I find that according to the Parliamentary Practice every clause of the Bill may be negatived and may be substituted. Then, there is another passage where it is said that even the Preamble itself may be altered. It is at page 485:

"The irregularity of the conversion by amendments of a Bill into a new Bill, by the committee to whom the Bill was referred, has been considered; though a Select Committee, after consultation with the Speaker, have negatived all the clauses, and the Preamble of a Bill; and made thereon a special report to the House. If the Select Committee should fail to report the Bill, the committee may be revived, and the Bill recommitted to it."

So, even according to the Parliamentary procedure, not only can a clause be negatived, but even the Preamble may be changed, and it is not irregular. Therefore, I submit, the contention that our going to the Select Committee was wrong neither in law nor in practice.

Sir, remarks have been made about the troubles in the Select Committee. If we have said anything in our report, I should like to make it perfectly clear that nothing was meant towards the Chairman personally. If it proves anything, it merely proves the obstinacy of the Government not to yield on any vital point, and we know that India's public men, when they are on the official side, have to do many things, sometimes against their own best wishes. I must here congratulate the Leader of the House on the very noble attitude that he took in not referring to anything that happened in the Select Committee, and I should like to follow his footsteps and not to enter into those petty squabbles. What we had to say we have put before the public and the House. I would like to mention that Government were not behind hand in putting forward their case in the press, for, I find, that before our report was published, there was a paragraph explaining the Government's position in the press. I would like to refer to only one passage in the minute of

dissent. In our report we made it clear that "we did not see eye to eye with Government" and then we narrated what view the Government took about the civil disobedience movement, and we quoted His Excellency's words. We merely argued on the assumption that the movement has been crushed—it does not mean necessarily that we said that that great national movement has been crushed. That disposes of what fell from my Honourable friend, Sir Abdulla Suhrawardy.

As I have said, I am not in favour of the main motion, I should also say that I am not much in favour of the amendments either. As regards recommending the Bill to the same Select Committee, I think it will be futile. If any improvement can be made in this Bill, it can be done by this House. So I do not agree with that amendment. As regards the other amendment of my Honourable friend, Shaikh Sadiq Hasan, for circulation of the Bill, all I can say is, if it is meant as a dilatory motion, I shall vote for it, because, I am for postponing the evil day for as many days as possible. But, if he thought that by lapse of some time, better sense would dawn upon Government, I am afraid he is hopelessly mistaken. The Government is like a machinery. The ideas they have they will carry out; they will not care what changes are going on daily round about them. So I do not think we will derive any benefit by circulating this Bill.

I should like to make my position clear why I am against any such piece of legislation. I cannot accept the *bond fides* of the Government that this piece of legislation is not really meant for crushing the national spirit in this country. That is the trouble. Had I been convinced that the real purpose of the Government was only to tide over the present difficulty, I would have agreed even to a far more drastic piece of legislation—if that were possible, because, I think this is the worst piece of legislation and it cannot be made worse—I would have agreed to that, but presently I shall show why I cannot believe in the *bond fides* of this Government. My own idea is that the Government know what the future constitution is going to be for India. They know that it will not satisfy the popular ideal of self-government, not to speak of Dominion Status. They are anticipating further troubles in future and they are asking for powers to crush any national revival in future. It will be clear to all and sundry that Government do not mean to bestow on India anything like Responsible Government in near future by their attitude of enforcing such legislation. Otherwise what was the need for placing this emergency legislation permanently on the Statute-book. After a great deal of pressure, they have agreed to limit its life for three years, but their intention to have this legislation permanently on the Statute-book shows that the intention is not to tide over these difficult times alone but to fight against the spirit of nationalism in this unfortunate land. In this connection, I like to say a few words about what my teacher, Sir Abdulla Suhrawardy, said about the release of Mahatma Gandhi. Nobody said that by the release of Mahatma Gandhi everything will be settled. It was pressed from this side that a spirit of reconciliation is the only remedy to fight against this disorder and agitation in this country. The question was raised on the floor of this House as to why Mahatma Gandhi was not released and the Government's reply was that though he was permitted to deal with questions of untouchability, he could not be allowed to deal with other political matters. During question time in the House, it is difficult to make this point clear. So I like to press this view on the Government.

[Mr. S. C. Mitra.]

Untouchability is not in itself political. When the question of untouchability raises the question of temple entry, it is religious. When it deals with inter-dining and inter-marriage, it is social; but when it raises the question whether the Depressed Classes should vote in a separate electorate or joint electorate and what should be the number of seats reserved for them and similar matters, it is political. My study of the thing is that Government thought that as Mahatma Gandhi failed to effect any reconciliation between the caste Hindus and the Depressed Classes in London, he would fail on this occasion also. They did not like Mahatma Gandhi to die in a British prison. So they allowed him a chance, but when the bigger question of Hindus and Muslims came, his release was refused, because Government were disillusioned last time about the great influence Mahatmaji had in this country. So, this time, though I admit that the Hindu-Muslim question is largely political, like the case of voting of the Depressed Classes in a separate or joint electorate, but in connection with this bigger question, the release of Mahatmaji would have been of great help to our people and yet his release was refused. That is an illustration to show how the mind of the Government is working, though the Government may say that it is not their intention.

Mr. K. Ahmed: It is an inference only.

Mr. S. C. Mitra: Yes. It is an inference and I shall be very glad to hear that my inference is wrong. I would like to impress upon Government that this spirit of nationalism,—this hunger for liberty, this idea of every nation to have full freedom in its own native country,—cannot be and will never be checked by any piece of legislation. That is the main point that I have been urging all along. I had been a Congress man for a long time, even before the non-co-operation movement was launched in 1920. I have been a member of the all-India Congress executive. I have seen, year after year, we approached Government in a constitutional way with our petitions and appeals. Then, in 1920, when the whole country adopted non-co-operation, Government were very much nervous, because they did not know this phase of the movement. Gradually they got accustomed to it and they put all their pressure, and what is the result? Now the people have lost faith in constitutional agitation and non-co-operation has given place to the civil disobedience movement. Really the spirit is not crushed. Indians will not tolerate being dominated by anybody. I have said it many a time that the people of India are not anxious to turn the Britishers, bag and baggage, out of India. They will be glad to have their full co-operation to develop their industries and avail themselves of the great organising power of the English race. They appreciate all this, but if in their own land they are treated as slaves and inferior people, how can you expect them to put up with your treatment. I am very much afraid that the success of these drastic measures may drive this open movement underground. This non-violent movement will lose its non-violent character. The other day a friend was telling us that the British Government had sent infantry battalions to crush the spirit of the Bengali race. We were humorously saying that they would do well if they send the Sappers and Miners in future, because the whole movement might go underground. So we want to impress upon Government that there must be an effort on the part of the Government to conciliate this spirit of revolt in the younger generation. These drastic

measures will not help. If you can crush it by a measure like this, you do crush it, by all means, but it is absolutely certain that nowhere in the history of the world the spirit of a nation which has developed itself into an organic state could be kept under restraint for a long time. That is why I say, even if you crush the civil disobedience movement, you will be really adding to the strength of the anarchist or the terrorist movement. I can boldly assert that no man in his senses will support terrorist movements. We all demand freedom of thought, freedom of association and freedom of action and do not think life is worth living if our opinion is forced at the point of the bayonet or the risk of a bomb. That is neither here nor there. It is really clouding the issue.

Sir, what we say is that these repressive measures that are meant against the civil disobedience movement will not avail—because that movement is a very legitimate movement—when an unarmed nation finds that all its reasonable appeals have failed and when it finds, year after year, that the nation is being crushed under economic pressure to the verge of starvation, when, for example, boys having received the highest education have not any avenues open for earning sufficient pittance to keep body and soul together, while they see before their very eyes every other nation progressing. Sir, how can Government, by drastic legislation alone, expect to keep a nation under subjection? That is the one idea that all along actuated me to say that these are not the measures that will help the Government, and that what should be done is to take recourse to real reconciliatory measures: and, in that connection, Mahatma Gandhi's release was urged. Of course, simply by releasing Mahatma Gandhi nothing can be attained. If, for example, Mahatma Gandhi today unconditionally accepts Government's terms and tries his best to stop civil disobedience, what will be the effect? He will simply lose his influence with the people. Neither the Government nor the people will gain, but he will become impotent. Sir, every great leader maintains his position, because he can anticipate and rightly interpret the feelings that are working in the nation's mind. That is the outstanding element in a great leader: and if Mahatma Gandhi accepts Government's terms unconditionally, he may issue his ukase, but, Sir, it may be taken for granted that Mahatma Gandhi or even a greater man than he, will fail in the objective. What we urge is that let Mahatma Gandhi be released unconditionally as part of the wider principle of reconciliation. It is known to Government that he has accepted the principle of non-violence and by means of persuasion and non-violent pressure he hopes to effect a change in the angle of vision of this Government. If that is possible, if Mahatma Gandhi is given a chance of proceeding in his own ways, then that spirit of reconciliation will help in bringing in peace and order in the country and, not the mere fact of the release of Mahatma Gandhi. Sir, I am opposed to this drastic legislation, because I know it cannot affect the real issue. The true policy of reconciliation with full responsible Government will put an end to civil disobedience movement, and not these drastic laws.

Sir Hari Singh Gaur (Central Provinces Hindi Divisions: Non-Muhammadan): Sir, I think we have debated the general question for three days and it is time that we came to closer grips with the Honourable the occupants of the Treasury Benches. On the last occasion, when this Bill was committed to a Select Committee, and, on the previous occasion, before the Bill was introduced, we explained our position to the Government

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in regard to the Ordinance Bill. Our position was clear and unequivocal, and, if Honourable Members will recall the words I used on the previous occasion, they will at once understand the reason why this side of the House is not at one with the Honourable the Home Member. Sir, in the month of February when the Ordinance Resolution was under consideration, I then pointed out to the then Home Member that there were several clauses in the Ordinance which could not stand the scrutiny of a judicial trial. I pointed out that, under the Government of India Act, this Legislature was not a sovereign body and that it was a body exercising its power by delegated authority from Parliament and that its powers were controlled and circumscribed by the provisions of section 65 of the Act. I then drew the attention of the Government to the proviso which laid down in clear unmistakable terms that the Government of India or the Indian Legislature had no power to enact any law which would in any way affect in any degree the allegiance of any person to the Crown of the United Kingdom, and I then explained as to what this phrase meant. I cited in that connection a passage from a well-known book, Taswell-Langmead's, "English Constitutional History", page 95, and to the later edition of that book I wish to recall the memory of Honourable Members today. At page 88, Sir, the authors summarise what are the conditions or implications of allegiance. They say:

"Three great political documents, in the nature of fundamental pacts between the Crown and the nation, stand out as prominent landmarks in English constitutional history.—The Magna Charta, the Petition of Rights and the Bill of Rights, constitute, in the words of Lord Chatham, the Bible of 'the Bible of the English constitution'. In each of these documents, whether it be of the thirteenth or of the seventeenth century, is observable the common characteristic of professing to introduce nothing new. Each professes to assert rights and liberties which were already old, and sought to redress grievances which were for the most part themselves innovations upon the ancient liberties of the people."

Honourable Members, who have studied the history of the English constitution imbedded in the English history, will find that, as far back as 1250, after the battle of Runnymede, when the Magna Charta was signed by King John, two clauses were acceded to and these are clauses 20 and 39; and clause 20 of the Magna Charta lays down that there shall be no amercement without trial. In other words, there shall be no forfeiture of property without a judicial trial; and the second, with which Members must be more familiar, is the well-known *Habeas Corpus* jurisdiction. In 1628, the Petition of Rights was granted and, in clauses 3 and 4 of it, it was clearly enacted that there shall be no seizure of property without trial. In 1689, in the reign of William and Mary, a Bill of Rights was passed in which it was emphatically laid down that fines and forfeiture before conviction were illegal and against the common law of England. All these clauses were brought under consideration and embodied in the Acts of Settlement of 1701 in which it was once more emphasised that the laws of England are the birth-right of the people binding on the king, so that you see the history of the English common law rights, which are the birth-rights of every British subject wherever he may be domiciled, and if we really wish to examine this question, we must examine the question from this basis of constitutional law.

Honourable Members will find that in this Bill, as in the Ordinance that preceded it, provision has been made for the forfeiture of property without recourse to justice. Provision has been made for vicarious punishment,

provision has been made giving the executive the right to amend and rescind Acts of this Legislature and last, but not least, a serious encroachment has been made upon the enactment passed by this House after full, fair and, may I add, prolonged consideration only so late as the 9th October, 1981, known as the Press Emergency Act. If, therefore, Sir, the further consideration of the report of the Select Committee is to be acceded to, I must ask this House to apply the test which we laid down and apply the common sense rules to which every Member of the Government and every Member on this side of the House must bow. Is there anything in the Government of India Act which can authorise the Indian Legislature to forfeit property of a subject of the Crown without trial and without giving him any right of redress in a Court of law? If I was to ask the Honourable Members of this House to take my word for it—Honourable Members on the Treasury Benches might demur, but they cannot object to the statement of law embodied in a well-known treatise written by Professor Dicey in his book on the Law of Constitution. Let us see what he says about it. And if, according to the test of that book, we find that there are provisions in this Bill which are *ultra vires* of the Indian Legislature, then I venture to ask the Home Member if he has consulted the Law Officers of the Crown on the legality of those provisions to which his attention was drawn as far back as February last. In Dicey's Law of Constitution, pages 228 and 229, we have the following words:

"The best proof of the very limited legal effect of such so-called suspension is supplied by the fact that before a *Habeas Corpus* Suspension Act runs out its effect is, almost invariably, supplemented by legislation of a totally different character, namely, an Act of Indemnity."

On page 229 he says:

"Suppose, again, that an arrest should be made by orders of the Ministry under circumstances which involve the unlawful breaking into a private dwelling-house, the destruction of private property, or the like. In each of these instances, and in many others which might easily be imagined, the Secretary of State who orders the arrest and the officials who carry out his commands have broken the law."

When he says "broken the law", he does not refer to the Statutory law only, but to the very foundations of the English constitution upon which depends the allegiance of the subject to the Crown. Those are the fundamental principles which cannot be altered even by the British Parliament. Then he goes on:

"They may have acted under the *bona fide* belief that their conduct was justified by the necessity of providing for the maintenance of order. But this will not of itself, whether the *Habeas Corpus* Act be suspended or not, free the persons carrying out the arrests from criminal and civil liability for the wrong they have committed. The suspension, indeed, of the *Habeas Corpus* Act may prevent the person arrested from taking at the moment any proceedings against a Secretary of State or the officers who have acted under his orders. For the sufferer is of course imprisoned on the charge of high treason or suspicion of treason, and therefore will not, while the suspension lasts, be able to get himself discharged from prison. The moment, however, that the Suspension Act expires he can, of course, apply for a writ of *habeas corpus*, and ensure that, either by means of being put on his trial or otherwise, his arbitrary imprisonment shall be brought to an end. In the cases we have supposed the prisoner has been guilty of no legal offence. The offenders are in reality the Secretary of State and his subordinates. The result is that on the expiration of the Suspension Act they are liable to actions or indictments for their illegal conduct, and can derive no defence whatever from the mere fact that, at the time when the unlawful arrest took place, the *Habeas Corpus* Act was partially at any rate, not in force."

The position, therefore, is as follows. Three fundamental rights, which are the condition of every oath of allegiance and are the birth-right of every British subject, have been safe-guarded to us by

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the Government of India Act, and that Act has laid down that nothing in the Act shall entitle the Indian Legislature to legislate in respect of anything which in any degree affects these rights upon which depends the oath of allegiance. Now, Sir, in England, in cases of grave national emergencies, what the Ministry do is to suspend for the time being the operation of the *Habeas Corpus* Act, but always follow, when the emergency has ceased, by the enactment of another measure known as the Act of Indemnity. But what are we here going to do? Let Honourable Members look at their Bill and they will see as to what provision is being made here in this enactment. Honourable Members' attention is invited to clause 17-F which lays down that every act, howmuchsoever illegal, howmuchsoever egregious and unjustified, will give no cause of action to the civil or criminal Court barring only cases in which the act has not been done in full faith or intended to be so done under that sub-section of the Bill under reference. Now, Sir, under English law, it has been laid down that howmuchsoever *bond fide* may be the act of the servant of the Crown, the doctrine of *respondet superior* would not apply towards acts which are inherently illegal. And here I submit that in section 17-F, under clause 18 of the Bill, the Honourable the Home Member wants to enact the law which gives these very servants a complete indemnity in advance of the acts which they are about to commit howmuchsoever illegal those acts might be. The Honourable Member will realise that in England such acts will be regarded as not only illegal, but as loosening the very fabric of the English constitution. As far back as 1801, it was settled in Parliament that an act of indemnity had to be passed after the acts had been done and when Parliament was in possession of all those acts, it was for the Parliament to decide whether they shall condone or not condone the acts of their servants. I, therefore, submit that this basic principle of common law to which I drew the attention of the occupants of the Treasury Benches in sufficient time has not yet been examined, so far as I am aware by any legal experts, or, indeed, by the Select Committee.

Reading through the proceedings of the Select Committee, I find no reference, not even a passing reference, to this fundamental question which affects the very foundation of the Legislative Assembly's jurisdiction in matters of this legislation. Therefore, I submit, it is perfectly just and right that we should pass in review our own power and transgress nothing that we are forbidden to do by the limited jurisdiction conferred upon us by the Government of India Act. It is not merely a question of propriety, it is a question of jurisdiction and legality.

Another point to which I would draw the attention of the House is, how many provisions there are in this Bill which empower the executive to confiscate property without recourse to a Court of justice. Clauses after clauses occur in the Bill and let me give Honourable Members one reference. Section 17-B lays down:

"The District Magistrate, Commissioner of Police or officer taking possession of a notified place shall also take possession of all moveable property found therein, and shall make a list thereof in the presence of two respectable witnesses."

Then the clause goes on:

"If, in the opinion of the District Magistrate, or, in a Presidency-town, the Commissioner of Police, any articles specified in the list are or may be used for the purposes of the unlawful association, he may proceed, subject to the provisions hereafter contained in this section, to order such articles to be forfeited to His Majesty."

Now, I wish to ask, in all humility, what authority do the Government have to confiscate a man's property by an executive action without giving him the opportunity and his right to question the act in a Court of law. The Select Committee have adopted a short sub-clause, (7), of which I am not unaware, namely, that the matter may be referred to "the decision of the District Judge whose decision on that point shall be final", mark the word, "final". In this connection, I have already troubled the House by recalling to it the provisions of section 107 of the Government of India Act which lays down that the High Court shall have powers of superintendence over all Courts subordinate thereto and yet here, by one fiat of the Indian Legislature, you are making an order passed by a subordinate Court final in the sense that it shall not be open to appeal or revision by the High Court. Sir, I will only trouble the House by giving a few instances of the *ultra vires* character of the several provisions of this Bill which the Honourable the Home Member, and indeed the Honourable the occupants of the Treasury Benches should seriously think over before proceeding further with the motion that they have in hand. I am not, and I shall never be a party to a mere dilatory motion. I have always assisted the Government against the wishes and much against the advice of my Honourable friends who surround me when I am morally convinced that the Government are right. But this is one of those occasions when Government should take counsel with themselves and see whether they are not transgressing the plain provisions of the English constitution underlying the enactment of section 65 of the Government of India Act.

Passing on to another aspect of the Bill, we find that this Bill gives the Local Governments power to amend or annul some of the salutary provisions contained in the Criminal Procedure Code by making bailable offences non-bailable and by suspending the operation of several provisions of the Criminal Procedure Code. Now, Sir, I ask this House one question. I ask the occupants of the Benches on both sides, whether they are sitting on the Treasury Benches or on the Opposition Benches, one question, we are sitting here as legislators of the country, we have the power of legislating for this land. Are we prepared to abdicate our functions and surrender our rights in favour of the executive in the Provinces? (Hear, hear.)

Some Honourable Members: No, no.

Sir Hari Singh Gour: I ask Honourable Members another question. The Local Governments will make an offence non-bailable which you have made bailable. The Local Governments will suspend several provisions of the Criminal Procedure Code which you have passed. Will you be a party to giving them indemnity against the abuse of the provisions and abuse of the power which you are transferring to the executive? Sir, this is not a mere question of abstract law, it is a question which must create qualms of conscience even in the occupants of the Treasury Benches. I am sure, Sir, that if I could divide up the personality of the Honourable the Home Member and make Mr. Haig separate from the Honourable the Home Member, which I might be tempted to do by enforcing the provisions of clause 7, by asking him to do his duty, and if you will permit me, Sir, in anticipation, to enforce the provisions of that clause by demanding that all the loiterers in the Treasury Benches shall not molest

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him, what would be his answer. (Laughter.) I am sure that here Mr. Haig differs from the Home Member. Sir, we are asked once more in this House to tighten up the rigours of the Press law and bring it back to the position in which it stood before this House, after a month of serious consideration, enacted the measure in anticipation and to provide against the very movement of which the Honourable Member complains. I wish to ask the Honourable the Home Member, has this Press emergency law been brought into force and has it been found wanting so as to entitle him to have recourse to the very provisions which we rejected and which he now demands we should re-embody in the Ordinance Bill? If Honourable Members will turn to the debate on the Press Bill, and I invite the attention of Honourable Members to a few passages in that debate printed on page 300, dated 11th September, 1981, this is what Sir James Crerar, the predecessor in office of the Honourable the Home Member, said in its support:

"Public opinion has been deeply and justly shocked by the unhappy prevalence and the serious extension of terrorist crime. Public opinion is insistent in its demand for a remedy."

It is in response to that appeal made by the Honourable the Home Member that this House recast the drastic provisions of the old Ordinances and, by their considered judgment, enacted the provisions of Act XXIII of 1981. But, before the ink on the paper on which that Bill was printed was dry, the Honourable the Home Member comes back and says: "Oh! give us back the power that we possessed under the Ordinance. Never mind the Act that you passed in October, 1981". Sir, should this House stultify itself? Is there any Member of this House who would not ask the question: "We have given you a power only a few months ago. We spent days and days of anxious thought as to how to remedy the evil of which you complained and we have given you statutory authority within the limits we considered fair and just; and you promised in accepting that measure to try and use it for the purpose for which it was intended. But you did nothing of the kind; you have broken the compact by not using the Press law which we enacted and now you come once more and say that you do not want that, you want something more drastic". Sir, those of us, who have little children, know that if you give a child a jujube to eat and he sees another on the table, he says: "No, mummy, I do not want this, I want that"; and when you give him that, he says: "No, mummy, I do not like this, I want that". Is that your attitude? We gave you one, and now you come up without trying it, and say: "No, no, we do not want that". (Laughter.) And, supposing, out of our affection for you, we do give you the other, I am not sure that you would not come up the next day and say: "No, we do not want this, we want that". Where is it all going to end? You would be landing yourself into a mass of contradictions in which not your sagacity or judgment, but even the sanity of your judgment would be in question. Sir, I am certain that Honourable Members will reflect before they commit themselves to this irrevocable step of giving the Government larger powers when the Press Act is before them on the Statute-book and not given effect to or tried, or if tried, has not in any degree been found wanting.

If these were the objections, Sir, in my humble judgment they would be insuperable. But, when I turn to the details of the Bill, what do I

find? The Honourable the Home Member, in accepting the motion for reference to Select Committee, said that he was quite prepared to go to the Select Committee, but he cautioned the House that he would not agree to the Bill being reduced to a pale shadow. Mentally, I am afraid, there was a reservation that when the Bill came back, it might be not a pale shadow, but a grim spectre, and this is what Honourable Members see before their eyes. (Cheers from the Opposition Benches.) You see before you, Sir, all the provisions of the Ordinance re-enacted in no way diluted out of deference to the consideration that we showed, out of deference to the criticisms that we have been making since February of this year. And, therefore, we feel justified in asking a question, if we are to precipitate the further progress of this Bill and enact it into law, are we quite sure that we have resolved all the doubts that arise in our minds regarding the legality, propriety and wisdom and expediency of giving such wide legislative powers to the executive? Sir, the other day my friend, Sir Leslie Hudson, in a maiden speech, on which I congratulate him, spoke with brutal frankness that the Congress had declared war upon Government and Government were bound to respond. These are the bows and arrows of Government flung at the Congress for which the Honourable Member wants that you and I should supply the poisonous tips. Sir, I can forgive my friend, Sir Leslie Hudson, but I cannot forgive my friend, Mr. Arthur Moore, who is not a stranger to this House, who is conducting a widely read newspaper and who this morning solemnly got up and said that Government must govern or get out. Are we the Government? We are not the Government.

Mr. Arthur Moore: May I point out that I did not say this, Sir?

An Honourable Member: It was Mr. Ghuznavi who said that.

Sir Hari Singh Gour: I make very little distinction between Mr. Ghuznavi and Mr. Moore. They are two leaves from the same book. (Applause.) My Honourable friend in an impassioned speech said that he would support this Bill though he was not enthusiastic about it; but has my friend for one moment thought as to what his words implied? Government have their duty. As administrators, their duty is plain and simple, namely, to make short work of all laws. They are in the position of a policeman who has got no time to turn to his breast-pocket and read the instructions; but we are here as legislators and it is our duty now to issue commands and whatever might have been the illegalities of the executive government in the past, they are responsible, not we; because it is they who have promulgated Ordinances and given effect to them over the head of the Legislature. But now when occasion arises, when the Legislature has to issue to the country at large its mandate and to all public servants, executive, police, judicial and others, the fiat from the Central Legislature, telling them what to do and what not to do, the occasion is a solemn one; the responsibility is great and your power on this occasion must be wisely exercised. Do not run away with the feeling that the executive will use these powers more wisely in the future than they have done in the past; only in the future they will use these powers not because they have fashioned them, but they shall use them in your name and under your authority. When a lathi charge is

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flesh and blood of your blood, have they not started and started with success a raging and tearing campaign that America should go dry?

Mr. Arthur Moore: No, wet.

Sir Hari Singh Gour: And did they not use all measures within their power to bring sobriety to the nation?

An Honourable Member: To the detriment of Europe.

Sir Hari Singh Gour: Sir, I venture to submit that outside that class of civil disobedience workers whose object is political, there is a much larger class of non-political social reformers who are anxious and have been anxious to establish temperance and Swadeshism in this country. Have you made any provision to safeguard their rights? You have done nothing of the kind. I, therefore, submit that the provisions of this clause regarding picketing are too wide. It may be that the Honourable the Home Member would say that if we allow a narrow door for the escape of social reformers, it will be a door through which all these civil disobedience people will escape. But, if that is the defect of the law, it is no reason why you should not make adequate provision against it. I am not here redrafting the clause. I am only telling Honourable Members that if they really want that the mischief of civil disobedience as such should be restricted, they should immediately restrict the Bill by the use of suitable language to the mischief directed against. I, therefore, submit that there are not only one or two casual defects in this Bill which can be solved by amendments here, but the whole thing is pierced through and through with defects of a more or less serious character which cannot be disposed of on the floor of this House. I do not, therefore, Sir, ask my friends on this side to assist the Government in the further progress of this Bill. Before I sit down, I would ask every Honourable Member to carefully ponder and consider the serious responsibility that rests on his shoulder on this occasion how he uses his vote. (Loud Applause.)

Several Honourable Members: Sir, the question be now put.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is that the question be now put.

The motion was adopted.

The Honourable Mr. H. G. Hale: (Loud Cheers.) Sir, it is nearly two months now since this House debated the principles of this Bill at considerable length for five days in Simla. Since then the Select Committee has examined the provisions of the Bill exhaustively for about a fortnight; and now we have reached the end of the third day's debate on this motion. I confess that I am surprised that the Government should be accused of adopting a procedure of haste. Indeed, the inevitable delays in the various stages of considering this Bill have given rise, in the course of the debate, naturally enough, to a certain amount of repetition of arguments and considerations that have been advanced before in Simla. That being so, I hope, Sir, you will excuse me if I too revert to some of the general

considerations and remind the House of the main position of Government in regard to this Bill.

In the first place, the Bill, as I said this morning, is directed against civil disobedience, and let me for a moment remind the House of what civil disobedience means. It is a movement designed to paralyse and coerce the Government, and it is a movement which, in the course of its activities, endeavours to intimidate and coerce those individuals who do not agree with the Congress. Now, Sir, we have heard many estimates of the vitality of this movement. My Honourable friend, Diwan Bahadur Rangachariar, whom I am sorry not to see here this afternoon, suggested that the movement was moribund, if not completely dead. This morning's telegrams bring us a curiously different estimate. The members of the India League Delegation, in their brief visit to this country, have made a number of discoveries which appear to have escaped the notice of those of us who merely live here. (Laughter.) And among their discoveries is this, that "the whole of India is Congress minded, and Mr. Gandhi holds in his hands the lives of all Englishmen and Englishwomen in India, and he has been rightly described as the best policeman the British have in India". That is to say, the leader of the civil disobedience, a movement directed to destroy the law, is the best policeman at present that we have in India! Well, Sir, I do not wish to lay too much stress on the views of the India Delegation. They are, after all, comparative novices in Congress propaganda. No doubt, with added experience they will realise that a propagandist statement ought to have some plausibility if it is going to carry conviction.

Sir, the civil disobedience movement, in the judgment of the Government, is gradually dying down, but it is still alive,—there must be no mistake about that. It will not, in my judgment, end so long as the leaders feel that there is any prospect of gaining their objects, and nothing is so likely to convince the leaders that they cannot gain their objects as the passing of this Bill and the Bills which are before the local Legislative Councils, for those Bills provide the powers against which the civil disobedience movement cannot prevail.

As I said before, in Simla, we are approaching a difficult period of transition. At a time like this we do not want the State to be inoculated with germs which will lead to the dissolution of all our hopes, for the worst feature, in my opinion, of the civil disobedience movement, is the method of direct action which it follows. There could be no more disastrous legacy that we could pass on, the present Government could pass on, to its successors than the triumph of direct action. Direct action is the greatest enemy of democracy. The principle of democracy is that the country is governed by argument, by reason, by voting, and not by coercion. It is not governed by walking out or by lying down, or by methods of obstruction, whether active or passive, and, if those methods gain the prestige of success just as this country is embarking on this enormous experiment in democracy, I can only see disaster ahead of us.

Well, Sir, we have had discussion as to the period for which these powers should be enacted. Our view is that the powers must be taken for a period sufficient not only to see the end of the present civil disobedience movement, but to see that there is no chance, particularly at a time when power is being transferred to other hands, of a revival. I am well aware that certain Honourable Members contend that once the new constitution

[Mr. H. G. Haig.]

has come in there can be no prospect of these methods being employed. But this is not a weapon that can merely be used against the present Government; in fact, it is not a weapon that is only being used against the present Government. The Congress is tyrannising over its own fellow countrymen, and if the Congress were successful in its object, it would establish under the new constitution a tyranny of a type that we have seen elsewhere in other countries where a small group of men get power for themselves and dominate by coercion the great mass of their fellow citizens.

As I have said before, and I say it again, we are not, in the measures that we are taking against civil disobedience, attacking the spirit of nationalism. We are attacking the methods that the Congress mistakenly adopts. It has been suggested in the course of this debate that our motives cannot be trusted, that we say one thing and mean another, that we have no intention of handing over power to the people of this country, but that having secured the passage of this Bill we shall entrench ourselves in our present position.

Well, Sir, instead of weaving the webs of suspicion, let us look at the facts. At the present moment, the Third Round Table Conference is sitting in London and let us look at the past history of that Conference. It does not start with a clean slate. The First Conference and the Second Conference came to very far-reaching fundamental decisions of principle as to the nature of the new constitution. We cannot foresee precisely the form in which those principles will be clothed when His Majesty's Government come to put forward in Parliament their proposals next year, but, at any rate, we have a clear idea of the general object and intention of His Majesty's Government and that is that real power should be handed over to the people of this country. Again, if we really intended to use these powers to resist reform, why should we agree to a time limit of three years? What use is it to us to maintain our present position for three years and then do exactly what in fact we are proposing to do now. If anything of that sort had been in our minds, surely we would have insisted on the permanence of this measure, and we would have justified the description of ourselves just given by my Honourable friend, Mr. Mitra—a machine, a relentless machine which never deviates from its course. The Honourable the Leader of the Independent Party raised another difficulty. He said—Suppose Congress come in and repeal this measure. Well, Sir, in the first place, I am not one of those who believe that the Congress in the new conditions are likely to sweep the country. They may secure the power in certain parts of the country; in others, I believe, they will certainly not. But suppose the Congress does come in. I am perfectly prepared to take my chance of that. We cannot guide the Governments of the future. We can only give them a fair start and leave them to solve their own difficulties in their own way. Again, I think, it was my Honourable friend, Sir Abdur Rahim, who suggested that non-Congress men, those Honourable Members who sit on the opposite side of the House and who condemn this measure, if they come into power, the first thing they will do is to repeal it. Well, Sir, it is surely a commonplace of experience that those who speak very scathingly and drastically in opposition very often change their minds when they come into positions of responsibility. (Some Honourable Members: "and vice versa also.") Honourable Members opposite very often know our difficulties, but I do

not expect them to acknowledge them. But when they sit in these seats, they will have to face them themselves and they will find that responsibility moulds opinions in unexpected ways.

Mr. Laichand Navalrai: Do not pass the Bill and we will recognise the responsibility.

The Honourable Mr. H. G. Haig: We had an appeal from my Honourable friend, Diwan Bahadur Rangachumar. He, as a good liberal, sees clearly how we are all in the wrong, the Congress and the Government alike, and he was inspired by a feeling of kindly tolerance which, I felt at times, he was disposed to extend even to the Government as well as to the Congress, and, with his mellow outlook on life, he believed in killing this civil disobedience by kindness. There are diseases in the body politic as in the human body which do not yield to treatment without a little pain and I cannot believe that, shrinking from a little pain, a little inconvenience and a little difficulty, the House will ask us to leave our task half done. We have got to eradicate this belief in direct action. What is the spirit we are fighting against? It is not, as I said, the nationalist spirit, but we are fighting against a spirit which is well expressed, I think, by a passage which I saw a few days ago in the Bombay Congress Bulletin, surely an authoritative exponent of Congress ideas. It was dated the 7th November of this year and this is what it says:

"The Congress adopts every possible method of persuasion in trying to convert people to its convictions. Failing that, it is driven to resort to direct action and is always ready to face the consequences that result from direct action."

In other words, the Congress starts off by trying to persuade others, but if they are so stupid or so obstinate as not to agree with the Congress, then they will be made to. That is the spirit that we have got to eradicate. (Applause.) That is the spirit which leads, as they themselves say, to direct action, to boycotting, to picketing and to all the activities at which this Bill is aimed. A democratic constitution cannot exist if that spirit is widespread. I do not propose, Sir, to say more than one word about the Select Committee, but I cannot refrain from extending my respectful commiseration to my Honourable friend, Mr. Puri, who was frank enough to acquaint us with his disappointment when he walked out of the Committee and found that he was followed by three members only, instead of six. It is a painful matter, Sir, for a leader when he finds that his followers do not follow him.

Now, there are a number of points which have been raised in the course of this debate which, I think, can best be answered when we come to the amendments. But there are one or two which I must endeavour to deal with briefly here. In the first place, there seems to be some little misunderstanding as to the relation between the Bill before the House and the local legislation which is being promoted in various Legislative Councils. The position is that the main and universal activities of the civil disobedience movement are being dealt with by the Bill before this House; and if that Bill is passed, there will be many areas in India where no further supplementary legislation will be required. But there are other areas where civil disobedience has shown more formidable

The Assembly divided:

AYES—40.

Abdul Matin Chaudhury, Mr.
Abdur Rahim, Sir.
Aggarwal, Mr. Jagan Nath.
Bagla, Lala Rameshwar Prasad.
Bhuput Singh, Mr.
Chandi Mal Gola, Bhagat.
Dutt, Mr. Amar Nath.
Gour, Sir Hari Singh.
Gunjal, Mr. N. R.
Hari Raj Swarup, Lala.
Ira, Chaudhri.
Jadhav, Mr. B. V.
Jog, Mr. S. G.
Lahiri Chaudhury, Mr. D. K.
Lalchand Navalrai, Mr.
Liladhar Chaudhury, Seth.
Maswood Ahmad, Mr. M.
Misra, Mr. B. N.
Mitra, Mr. S. C.
Murtuza Saheb Bahadur, Maulvi Sayyid.

NOES—63.

Abdoola Haroon, Seth Haji.
Abdul Hye, Khan Bahadur Abul Hasnat Muhammad.
Acott, Mr. A. S. V.
Ahmad Nawaz Khan, Major Nawab.
Ahmed, Mr. K.
Allah Baksh Khan Tiwana, Khan Bahadur Malik.
Amir Hussain, Khan Bahadur Saiyid.
Anklesaria, Mr. N. N.
Anwar-ul-Azim, Mr. Muhammad.
Bajpai, Mr. G. S.
Bhore, The Honourable Sir Joseph.
Bower, Mr. E. H. M.
Dalal, Dr. R. D.
DeSouza, Dr. F. X.
Dudhoria, Mr. Nabakumar Sing.
Dunn, Mr. C. W.
Dutt, Mr. G. S.
Fazal Haq Piracha, Shaikh.
Fox, Mr. H. B.
Graham, Sir Lancelot.
Greenfield, Mr. H. C.
Gwynne, Mr. C. W.
Haig, The Honourable Mr. H. G.
Hezlett, Mr. J.
Hossack, Mr. W. B.
Hudson, Sir Leslie.
Ishwarsingji, Nawab Naharsingji.
Ismail Ali Khan, Kunwar Hajee.
James, Mr. F. E.
Jawahar Singh, Sardar Bahadur Sardar.
Lal Chand Hony. Captain Rao Bahadur Chaudhri.
Mackenzie, Mr. R. T. H.
Macqueen, Mr. P.

The motion was negatived.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That the Bill to supplement the Criminal Law, as reported by the Select Committee, be taken into consideration."

Pandian, Mr. B. Rajaram.
Parma Nand, Bhai.
Phookun, Mr. T. R.
Puri, Mr. B. R.
Puri, Mr. Goswami M. R.
Ranga Iyer, Mr. C. S.
Rastogi, Mr. Badri Lal.
Reddi, Mr. P. G.
Reddi, Mr. T. N. Ramakrishna.
Roy, Rai Bahadur Sukhraj.
Sadiq Hasan, Shaikh.
Sarda, Diwan Bahadur Harbilas.
Sen, Mr. S. C.
Sen, Pandit Satyendra Nath.
Singh, Kumar Gupteshwar Prasad.
Singh, Mr. Gaya Prasad.
Sitaramaraju, Mr. B.
Thampan, Mr. K. P.
Uppi Saheb Bahadur, Mr.
Ziauddin Ahmad, Dr.

Meek, Dr. D. B.
Metcalf, Mr. H. A. F.
Mitter, The Honourable Sir Brojendra.
Moore, Mr. Arthur.
Morgan, Mr. G.
Muazzam Sahib Bahadur, Mr. Muhammad.
Mukherjee, Rai Bahadur S. C.
Naydu, Rao Bahadur B. V. Sri Hari Rao.
Nihal Singh, Sardar.
Noyce, The Honourable Sir Frank.
Parsons, Sir Alan.
Rafuiddin Ahmad, Khan Bahadur Maulvi.
Rajah, Rao Bahadur M. C.
Rajan Baksh Shah, Khan Bahadur Makhdum Syed.
Rau, Mr. P. R.
Ryan, Mr. T.
Sarma, Mr. R. S.
Schuster, The Honourable Sir George.
Scott, Mr. J. Ramsay.
Sher Muhammad Khan Gakhar, Captain.
Singh, Mr. Pradyumna Prashad.
Smith, Mr. R.
Sorley, Mr. H. T.
Suhrawardy, Sir Abdulla-al-Mamun.
Talib Mehdi Khan, Nawab Major Malik.
Tottenham, Mr. G. R. F.
Wajihuddin, Khan Bahadur Haji.
Wilayatullah, Khan Bahadur H. M.
Yakub, Sir Muhammad.
Zulfiqar Ali Khan, Sir.

The Assembly divided:

AYES—63.

Abdoola Haroon, Seth Haji.
Abdul Hye, Khan Bahadur Abul Hasnat Muhammad.
Acott, Mr. A. S. V.
Ahmad Nawaz Khan, Major Nawab.
Ahmed, Mr. K.
Allah Laksh Khan Tiwana, Khan Bahadur Malik.
Amir Hussain, Khan Bahadur Saiyid.
Anklesaria, Mr. N. N.
Anwar-ul-Azim, Mr. Muhammad.
Bajpai, Mr. G. S.
Bhore, The Honourable Sir Joseph.
Bower, Mr. E. H. M.
Dalal, Dr. R. D.
DeSouza, Dr. F. X.
Dudhoria, Mr. Nabakumar Sing.
Dunn, Mr. C. W.
Dutt, Mr. G. S.
Fazal Haq Piracha, Shaikh.
Fox, Mr. H. B.
Graham, Sir Lancelot.
Greenfield, Mr. H. C.
Gwynne, Mr. C. W.
Haig, The Honourable Mr. H. G.
Hezlett, Mr. J.
Hossack, Mr. W. B.
Hudson, Sir Leslie.
Ishwarsingji, Nawab Naharsingji.
Ismail Ali Khan, Kunwar Hajee.
James, Mr. F. E.
Jawahar Singh, Sardar Bahadur Sardar.
Lal Chand, Hony. Captain Rao Bahadur Chaudhri.
Mackenzie, Mr. R. T. H.
Macqueen, Mr. P.

NOES—30.

Abdul Matin Chaudhury, Mr.
Abdur Rahim, Sir.
Aggarwal, Mr. Jagan Nath.
Bagla, Lala Rameshwar Prasad.
Bhuput Singh, Mr.
Chandi Mal Gola, Bhagat.
Dutt, Mr. Amar Nath.
Gour, Sir Hari Singh.
Gunjal, Mr. N. R.
Hari Raj Swarup, Lala.
Ira, Chaudhri.
Jadhav, Mr. B. V.
Jog, Mr. S. G.
Lahiri Chaudhury, Mr. D. K.
Lalchand Navalrai, Mr.
Liladhar Chaudhury, Seth.
Maswood Ahmad, Mr. M.
Misra, Mr. B. N.
Mitra, Mr. S. C.
Murtuza Saheb Bahadur, Maulvi Sayyid.

The motion was adopted.

The Assembly then adjourned till eleven of the Clock on Tuesday, the 22nd November, 1932.

Meek, Dr. D. B.
Metcalf, Mr. H. A. F.
Mitter, The Honourable Sir Brojendra.
Moore, Mr. Arthur.
Morgan, Mr. G.
Muazzam Sahib Bahadur, Mr. Muhammad.
Mukherjee, Rai Bahadur S. C.
Naydu, Rao Bahadur B. V. Sri Hari Rao.
Nihal Singh, Sardar.
Noyce, The Honourable Sir Frank.
Parsons, Sir Alan.
Rafuiddin Ahmad, Khan Bahadur Maulvi.
Rajah, Rao Bahadur M. C.
Rajan Baksh Shah, Khan Bahadur Makhdum Syed.
Rau, Mr. P. R.
Ryan, Mr. T.
Sarma, Mr. R. S.
Schuster, The Honourable Sir George.
Scott, Mr. J. Ramsay.
Sher Muhammad Khan Gakhar, Captain.
Singh, Mr. Pradyumna Prashad.
Smith, Mr. R.
Sorley, Mr. H. T.
Suhrawardy, Sir Abdulla-al-Mamun.
Talib Mehdi Khan, Nawab Major Malik.
Tottenham, Mr. G. R. F.
Wajihuddin, Khan Bahadur Haji.
Wilayatullah, Khan Bahadur H. M.
Yakub, Sir Muhammad.
Zulfiqar Ali Khan, Sir.

***APPENDIX.**

*Translation of a speech delivered in Marathi by Mr. N. R. Gunjal, M.L.A.,
on the 15th November, 1932.*

Mr. N. R. Gunjal (Bombay Central Division: Non-Muhammadan Rural): Sir, I support the motion for circulation of the Bill moved by my friend, Shaikh Sadiq Hasan. It seems to me that Government have, after a great exertion, brought forward this Bill with the object of harassing the people and their leaders.

So far, only the educated classes have ventilated their views on the Bill through the Press; but, since it has not been published in all the vernaculars of the land, the general masses are unable to form an adequate opinion on this wicked measure. It is, therefore, necessary to circulate the Bill for the purpose of eliciting public opinion thereon.

The late Honourable Mr. Gokhale had remarked that it was incumbent on Government to publish in all the vernaculars of the land any legislation that was likely to undermine the interests of the people; and that if Government ignored that duty, the representatives of the people at least, ought to be alive to it. The House should, therefore, pass Shaikh Sahib's amendment. Opposition of this amendment by Government would, to use the expression of the late Honourable Mr. Gokhale, be only indicative of their dishonesty of purpose.

While speaking on the Bill, the Honourable Mr. Haig has unnecessarily made strictures on the Congress and other national institutions. The Round Table Conference is still working, and it ill-becomes Government to get this anti-national measure passed post-haste at this juncture.

I hope the House will support the amendment moved by my Honourable friend, Shaikh Sadiq Hasan.

**Vide page 2111 of L. A. Debates, dated the 15th November, 1932.*

LEGISLATIVE ASSEMBLY

Tuesday, 22nd November, 1932.

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

QUESTIONS AND ANSWERS.

LOWERING OF THE STATUS OF THE KOTLA POST OFFICE IN THE KANGRA DISTRICT.

1862. *Mr. T. N. Ramakrishna Reddi (on behalf of Mr. Jagan Nath Aggarwal): (a) Will Government kindly state if it is a fact that the telegraph branch of the Post Office at Kotla (Kangra District) was abolished some time last year?

(b) Is it also a fact that the sub-office at Kotla was converted into an Extra Departmental Sub-Office on October 10th, 1932?

(c) Are Government aware that the above steps taken by the Government have led to great inconvenience being felt by the public in general and pilgrims in particular?

(d) Has the attention of the Government been drawn to various letters which appeared in the press on the above subject, particularly the letters in the Tribune, dated the 18th of January, 1932, 24th February, 1932, and 17th June, 1932?

(e) Is it a fact that a proposal is under consideration to reduce the status of the Kotla Extra Departmental Sub-Office to that of an Extra Departmental Branch Office?

(f) Are Government aware that Kotla lies in the heart of the Grand Trunk Road running from Amritsar to Baijnath and that all passengers, pilgrims, and Chamba State people frequently avail themselves of this very Extra Departmental Sub-Office?

(g) Are Government prepared to give up the proposal of converting this Extra Departmental Sub-Office into an Extra Departmental Branch Office, should there be any such proposal afoot?

Mr. T. Ryan: Government have not seen the letters referred to in part (d), and have no information on the subject matter of the Honourable Member's question. The matter is one which is within the competence of the Head of the Postal Circle concerned to whom a copy of the question is being sent.

ALLOWANCE FOR CASUAL ABSENCES OF THE EMPLOYEES OF THE GOVERNMENT OF INDIA PRESS, NEW DELHI.

1863. *Mr. D. K. Lahiri Chaudhury (on behalf of Mr. S. C. Mitra): (a) Is it a fact that many men of the Government of India Press, New Delhi, were marked leave without allowance for their casual absences since the Fundamental Rules were introduced and that their absences were subsequently treated as leave with pay and payments were ordered by the Government of India?

(b) Is it not also a fact that the Manager has not yet made the payments? If so, why?

(c) Will Government be pleased to inform the House whether payments will be made at all and, if so, when?

The Honourable Sir Frank Noyce: (a) Leave taken in excess of the casual leave due was granted without pay to temporary men and these absences have not been subsequently treated as leave with pay. The Government of India have issued no orders authorising payment.

(b) and (c). Do not arise.

PAYMENTS FOR INTERVAL PERIODS TO THE EMPLOYEES OF THE GOVERNMENT OF INDIA PRESS, NEW DELHI.

1364. ***Mr. D. K. Lahiri Chaudhury** (on behalf of Mr. S. C. Mitra): (a) Is it not a fact that previously payments were made to the employees of the Government of India Press, New Delhi, for the interval period when overtime work was done in the interest of Government work?

(b) Is it not also a fact that payments were stopped about three years ago and that the Controller of Printing assured the men that the matter had been referred to the Government of India?

(c) Will Government please say whether any orders were passed or not?

(d) If not, how long will they take to examine the matter and issue their orders to remove the discontentment of the men?

The Honourable Sir Frank Noyce: (a) Yes, except to pieceworkers recruited after the 1st November, 1922.

(b) Payment was stopped from the 1st July, 1923. In reply to a representation received in October last the Controller informed the men that the matter had been referred to the Government of India.

(c) and (d). Government are not prepared to revert to the previous practice.

PAYMENTS TO THE INDUSTRIAL EMPLOYEES OF THE GOVERNMENT OF INDIA PRESS, NEW DELHI, FOR WORKING ON SUNDAYS AND HOLIDAYS.

1365. ***Mr. D. K. Lahiri Chaudhury** (on behalf of Mr. S. C. Mitra): (a) Are Government aware that the industrial employees of the Government of India Press, New Delhi, were allowed a day's pay *plus* 50 per cent. and a day's pay *plus* 25 per cent. for attendance on a Sunday and a holiday, respectively?

(b) Is it not a fact that many men had to attend office on two Sundays during February and March last, that payments for attendance on these days were not made under the prevailing system and that the matter was referred to the Government of India for interpretation of their orders on such payments?

(c) Are Government aware that the men are much inconvenienced on account of the delay in payments and that they requested the Manager to get the matter settled immediately?

(d) Are Government prepared to pass orders at an early date directing payments to be made as before or to revert to the old system of allowing

a day's leave in lieu of a Sunday or a holiday attendance as was done before?

The Honourable Sir Frank Noyce: (a) Yes.

(b) The reply to the first part is in the affirmative. Payments were made to the men but were objected to by the audit authorities who referred the matter to the Government of India for a correct interpretation of their orders.

(c) No delay in payment took place. Certain employees made a representation and were informed that an interpretation of the orders must be awaited.

(d) Government cannot revert to a practice which was based on a misinterpretation of their orders. Compensation leave for those holidays which are additional to the weekly holiday was abolished in 1923 and Government are not prepared to re-introduce it, but they agree that compensatory holidays should be given for Sundays on every possible occasion.

EXPENDING POWERS ACCRUING TO PROVINCES ACCORDING TO THE REPORT OF THE FINANCIAL RELATIONS COMMITTEE.

1366. ***Mr. D. K. Lahiri Chaudhury** (on behalf of Mr. B. N. Misra): Will Government be pleased to lay on the table:

(a) a copy of an estimate of the expending power which will accrue to each Province according to paragraphs 16 and 17 of the Financial Relations Committee's Report;

(b) the memorandum of the Madras Government with its estimates of the existing and proposed expenditure in putting forth its financial position as laid down in paragraphs 16 and 17 of the Meston Report or Award; and

(c) whether the sum of about Rs. 8½ lakhs payable by the Government of Bihar and Orissa as interest on the capital outlay on the Orissa Canal System was taken into account in the ordinary estimates of income and expenditure of the Government of Bihar and Orissa as stated in paragraphs 16 and 17 referred to above?

The Honourable Sir George Schuster: (a) and (b). Government do not consider that any useful purpose would be served by having these papers, which are now 12 years out of date, reprinted, but if the Honourable Member has any particular points on which he desires information, I will endeavour to enlighten him.

(c) Yes.

SAVING EFFECTED BY THE DISCONTINUANCE OF THE THROUGH BOGIE FROM LUCKNOW AND CAWNPORE TO BOMBAY AND VICE VERSA.

1367. ***Mr. J. Ramsay Scott:** (a) Will Government please supply the following details of traffic between Bombay and Lucknow and Cawnpore and between Lucknow and Cawnpore and Bombay:

(i) the total weight of goods carried over the Great Indian Peninsula Railway; and

(ii) the total value in rupees received by the railway for such freight?

(b) Will Government please state the saving accrued to the Great Indian Peninsula Railway through the discontinuing of the through bogie from Lucknow and Cawnpore to Bombay and *vice versa*?

(c) Are Government aware of the inconvenience caused by the discontinuance of the through service to some of its customers?

Mr. P. R. Rau: (a) Returns containing the information asked for are not at present maintained. If my Honourable friend will let me know for what purpose he requires this information, Government will consider whether special steps should be taken to collect it.

(b) From rough calculations which have been made, it appears that the saving probably amounts to not less than Rs. 100 a day.

(c) Government are aware that the discontinuance of the through service has caused inconvenience to certain passengers but the action taken by the Great Indian Peninsula Railway was, as already explained by me in reply to another question by my Honourable friend, taken as an economy measure, having regard to the traffic offering.

REVISION OF THE SCALES OF PAY OF THE GAZETTED AND NON-GAZETTED ESTABLISHMENTS UNDER THE GOVERNMENT OF INDIA.

1368. ***Mr. D. K. Lahiri Chaudhury** (on behalf of Mr. S. G. Jog): Will Government be pleased to state:

- whether Mr. Sloan, the Officer on Special Duty, has completed the report of revising the time-scales of pay of gazetted and non-gazetted establishments under the Government of India;
- whether all the points raised in the Resolution of Mr. Muhammad Muazzam have been taken into consideration according to the assurance given by the Honourable the Finance Member;
- whether the proposed time-scale of the non-gazetted establishments working under the Government of India is uniform;
- the proposed time-scale of gazetted and non-gazetted establishments working in the following offices in the cities of Bombay and Karachi:—(1) Income-Tax (2) Accounts (3) Customs (4) Currency and (5) Mint; and
- whether the new scale of pay is to be applied to the future entrants or to the present staff also?

The Honourable Sir George Schuster: (a) The work connected with the revision of pay scales is not yet completed.

(b) The assurances given by Sir Alan Parsons on the 7th September, 1932, are being implemented.

(c), (d) and (e). As the proposals have not yet been approved by Government I regret that their nature and the extent of their application cannot be revealed.

ISSUE OF DIRTY CURRENCY NOTES BY SOME CURRENCY AND TREASURY OFFICES.

1369. ***Mr. D. K. Lahiri Chaudhury** (on behalf of Mr. S. G. Jog): (a) Will Government be pleased to state if they are aware that dirty currency notes with a number of writings are still issued by some Currency and Treasury Offices and thereby persons find it difficult to get such notes exchanged in the market?

(b) If so, are Government prepared to issue instructions to the authorities concerned to see that only the superfine notes be re-issued? If not, why not?

The Honourable Sir George Schuster: The attention of the Honourable Member is invited to the answer to question No. 267 by Mr. Lalchand Navalrai on the 15th September, 1932. The instructions contemplate only the re-issue of notes which are in perfectly good condition and which the acceptors can have no difficulty in exchanging, and Government have no information that these orders are not being followed. They therefore do not consider it necessary to issue any fresh instructions.

ALLEGED CALLOUSNESS OF THE EAST INDIAN RAILWAY AUTHORITIES.

1370. ***Mr. D. K. Lahiri Chaudhury:** (a) Has the attention of Government been drawn to the correspondence published headed "Callousness of Railway Authorities" on page 12 of the newspaper *Liberty* of Calcutta, dated the 29th April, 1932?

(b) If so, have Government made any investigation into the matter of the alleged utter negligence and carelessness on the part of the East Indian Railway authorities?

(c) If not, are Government prepared to do so now and state as to how the injury was caused to the passenger, Mr. H. C. Bhattacharjee, when he was travelling by the 8-Down Express, which was running between Etawah and Cawnpore?

Mr. P. R. Rau: With your permission, Sir, I propose to reply to this and question No. 1371 together. Government have not seen the correspondence referred to but are endeavouring to obtain a copy of the newspaper in question. Information regarding this occurrence is being obtained from the Agent, East Indian Railway. I shall place a full reply on the table in due course.

RENDERING OF FIRST AID TO INJURED PASSENGERS ON STATE RAILWAYS.

*1371. ***Mr. D. K. Lahiri Chaudhury:** (a) Is it a fact that there is an arrangement under which the guard of a passenger train is to keep all sorts of medicines and other accessories ready with him to render any help or first aid in case of any serious accident or bodily injury caused to a passenger when travelling by railway?

(b) If so, why did not the guard of the 8-Down Express or the platform officer of the Cawnpore Railway Station render any help to the injured passenger, Mr. Bhattacharjee, on the 29th April, 1932, on the Cawnpore platform but asked by wire the Railway doctor at Allahabad to attend to his injuries?

(c) Is it a fact that the Railway doctors at Allahabad and Mirzapore also did not render any help to the injured passenger and that the first aid was given only by the Railway doctor at Moghalsarai the next morning?

(d) Are Government prepared to see that efficient arrangements are made in all important stations on the East Indian Railway and other State-managed Railways for promptly rendering first aid to passengers who receive injuries from accident in course of travelling by trains on their lines?

*For answer to this question, see answer to question No. 1370.

LATE COMMUNICATION OF GOVERNMENT ORDERS REGARDING THE ADJUSTMENT OF COMMUNAL INEQUALITIES IN THE POSTS AND TELEGRAPHS DEPARTMENT.

1372. *Seth Haji Abdoola Haroon: (a) Is it a fact that the Government of India, Home Department, Memorandum No. F.-176/25-Est., was issued on the 5th January, 1925, and that the Director-General, Posts and Telegraphs, issued a general letter No. A. M.-576/12/27, on the 22nd November, 1927, communicating the principle of Government in adjusting communal inequalities?

(b) If the dates of issue of the orders referred to above are correct, will Government please state what made the Director-General to communicate the orders of the Home Department to his subordinates after a delay of about three years?

(c) Is it a fact that the Postmaster-General, United Provinces, issued a general letter communicating the above-mentioned Government order under No. Staff-B./X-194, dated the 18th October, 1930, i.e., after a lapse of another three years?

(d) Will Government please state how many years did the other Postmasters-General take to communicate the Government orders referred to in part (a) above?

The Honourable Sir Frank Noyce: (a) The date of issue of the Home Department Memorandum referred to is 5th February, 1926, not 5th January, 1925, as stated by the Honourable Member. The reply to the second part of the question is in the affirmative.

(b) Does not arise. I may, however, explain that the Memorandum in question referred to measures to be adopted for securing the appointment of members of minority communities in the Government of India Secretariat and Attached Offices, and did not, therefore, apply to the Posts and Telegraphs Department generally. However, after some consideration it was decided in 1927, that the same procedure should be followed in clerical recruitment for all branches of the Posts and Telegraphs Department.

(c) No; the orders were first communicated by the Postmaster-General, United Provinces Circle, on the 24th January, 1928.

(d) Enquiries are being made and a reply will be placed on the table in due course.

NUMBER OF MUSLIMS AND NON-MUSLIMS IN CERTAIN OFFICES.

1373. *Seth Haji Abdoola Haroon: Will Government please lay on the table a chart showing the number of Muslims and non-Muslims in the following cadres in the years 1925, 1927, 1929 and 1931:

1. Superior Telegraph Traffic Branch.
2. Superior Telegraph Engineering Branch.
3. Superior Wireless Branch.
4. Telegraph Masters.
5. Engineering Supervisors, General.
6. Engineering Supervisors, Telephone.
7. Electrical Supervisors?

8. Accountant-General, Deputy Accountant-General, and
9. Assistant Accountant-General.
10. Assistant Accounts Officers.
11. Telegraphists, General Service and Station, in each province.
12. Clerks, Class I, II and III, Munshis and Timekeepers in each province.

The Honourable Sir Frank Noyce: A statement as regards items 1-10 is laid on the table. As regards items 11-12, the information is not readily available and Government consider that its collection would involve an undue expenditure of time and labour.

Statement.

	1925.		1927.		1929.		1931.	
	Mus-lim.	Non-Mus-lim.	Mus-lim.	Non-Mus-lim.	Mus-lim.	Non-Mus-lim.	Mus-lim.	Non-Mus-lim.
1 Superior Traffic Branch, I Division	..	14	..	14	..	14	..	14
1 Superior Traffic Branch, II Division	..	35	..	35	..	35	..	35
2 Superior Telegraph Engineering Branch	..	55	..	49	..	55	1	52
2 Assistant Engineer-General	..	15	..	14	..	14	..	12
2 Assistant Engineer-Telephone	..	2	..	2	..	2	..	2
2 Assistant Electrical Engineer	..	4	..	4	..	4	..	3
3 Superior Wireless Branch	..	7	..	7	..	7	..	7
3 Assistant, Engineer, Wireless	..	2	..	2	..	2	..	2
4 Telegraph Master	3	350	6	347	9	317	9	309
5 Engineering Supervisors, General	7	110	7	127	7	126	8	156
6 Engineering Supervisors, Phone	2	34	2	44	2	46	3	54
7 Electrical Supervisors	..	50	1	57	1	56	1	64
8 Accountant-General and Deputy Accountant-General	..	6	..	6	..	6	..	6
9 Assistant Accountant-General	..	2	..	2	..	3	..	3
10 Assistant Accounts Officer	..	7	..	13	..	13	..	16

RECRUITMENT OF MUSLIMS AS TELEGRAPHISTS, GENERAL SERVICE AND STATION SERVICE, IN THE PUNJAB AND NORTH-WEST FRONTIER POSTAL CIRCLE.

1374. *Seth Haji Abdoola Haroon: Is it a fact that out of 21 vacancies of Telegraphists, General Service and Station Service in the Punjab and North-West Frontier Circle, only one has gone to the Muslims and the rest to non-Muslims during the last recruitment?

The Honourable Sir Frank Noyce: Recruitment of telegraphists is made mainly by an open competitive examination on an all India basis, but a proportion of vacancies is reserved for recruitment from men already in the Department. In the last recruitment out of 245 candidates who entered for the written examination, only 12 were Muslims, of whom only one passed the examination. By the assignment of grace marks however three more were also treated as if they had done so.

Of the candidates from the Punjab, 21 were appointed to the service including one Muslim.

As regards departmental appointments, out of ten taken from the Punjab, six were Muslims. I should add that it may unfortunately, owing to retrenchment, prove impossible to confirm all these ten men as telegraphists.

NON-RECRUITMENT OF MUSLIM CLERKS IN THE CENTRAL TELEGRAPH OFFICE, NEW DELHI.

1375. *Seth Haji Abdoola Haroon: Is it a fact that not a single Muslim clerk has been recruited in the Central Telegraph Office, New Delhi, since 1927, whereas ten non-Muslims have been recruited?

The Honourable Sir Frank Noyce: No, only six clerks have been recruited and two of those have been Muslims.

Mr. M. Maswood Ahmad: Will the Honourable Member be pleased to state if these Muslim clerks include Ikramuddin and Fakhrul Hussain who are not in service and one of whom was employed only for about two months, after which he was dismissed and replaced by a Hindu clerk?

The Honourable Sir Frank Noyce: The Honourable Member can hardly expect me to be familiar with the names of the personnel of the department. I will make inquiries on the point he has mentioned.

Mr. M. Maswood Ahmad: Apart from those four Hindus mentioned by the Honourable Member, is it a fact that Messrs. H. D. Pant, Girdharilal, Madheram, L. D. Joshi, Devi Parshad and Time Keeper, Mr. Sohanlal, were recruited after 1927 and were appointed by the Post Master General for Delhi-Simla Offices which constitute practically one office?

The Honourable Sir Frank Noyce: I have said that six clerks have been recruited and that two of those have been Muslims.

Mr. M. Maswood Ahmad: I am giving six Hindu names to the Honourable Member.

The Honourable Sir Frank Noyce: I presume that my information is correct. I do not know from what source the Honourable Member obtained his; but I shall be very glad to go into the matter and see which of us is correct.

Mr. M. Maswood Ahmad: I hope the Honourable Member will lay on the table the result of his enquiry for our information.

NON-RECRUITMENT OF MUSLIM CLERKS IN THE OFFICE OF THE DIVISIONAL ENGINEER, TELEGRAPHS, NEW DELHI.

1376. *Seth Haji Abdoola Haroon: (a) Is it a fact that since 1923 not a single Muslim clerk has been appointed in the office of the Divisional Engineer, Telegraphs, at New Delhi, whereas several non-Muslims have been taken in?

(b) Will Government please place a chart on the table showing the number of Muslims and non-Muslims recruited after 1925 in the different offices of Divisional Engineers, Telegraphs, in each province?

The Honourable Sir Frank Noyce: (a) No. Since the 1st January, 1923, one permanent and four temporary Muslim clerks have been appointed. In one case a Muslim clerk to whom an appointment was offered did not take it up, and in another out of 50 applicants for a post, none was a Muslim.

(b) Information has been called for and will be placed on the table in due course.

RECRUITMENTS IN THE TELEGRAPH DEPARTMENT.

1377. *Seth Haji Abdoola Haroon: (a) Will Government state whether the recruitment made in the Telegraph Department was in accordance with orders contained in the Home Department Memorandum No. F-176/25-Est. dated the 5th January, 1932?

(b) If not, have Government taken any action against the recruiting officers evading these orders or are Government going to take any action now?

The Honourable Sir Frank Noyce: (a) I have been unable to trace any Home Department memorandum of the number and date quoted by the Honourable Member.

(b) Does not therefore arise.

ANGLO-INDIAN INSTITUTIONS AUTHORIZED TO SEND TRAINED MEN FOR APPOINTMENT AS GENERAL SERVICE TELEGRAPHISTS.

1378. *Seth Haji Abdoola Haroon: (a) Will Government please state the names of the Anglo-Indian institutions that are authorised to send trained men for appointment as General Service Telegraphists?

(b) Has any Hindu, Muslim or Sikh ever been recruited from any of these institutions?

(c) If not, why not?

(d) Is there any such Indian institution?

The Honourable Sir Frank Noyce: With your permission, Sir, I propose to deal with questions Nos. 1878 and 1879 together.

As regards part (a) of these questions, the system of recruitment of telegraphists through certain approved educational institutions was discontinued in 1929. The remaining parts of the questions do not therefore arise.

INDIAN INSTITUTIONS AUTHORIZED TO SEND TRAINED MEN FOR APPOINTMENT AS STATION SCALE TELEGRAPHISTS.

†1379. *Seth Haji Abdoola Haroon: (a) Will Government please state the names of the Indian institutions that are authorised to send trained men for appointment as Station Scale Telegraphists?

(b) Has any Muslim ever been recruited as a telegraphist through any of these institutions?

(c) If not, are Government prepared to extend this privilege to the Government schools instead of private and Government-aided schools?

NON-APPOINTMENT OF A MUSLIM ASSISTANT TO DEAL WITH ASSEMBLY INTERPELLATIONS IN THE OFFICE OF THE DIRECTOR GENERAL, POSTS AND TELEGRAPHS.

1380. *Seth Haji Abdoola Haroon: (a) Is it a fact that in the office of the Director General, Posts and Telegraphs, the assistant, who is entrusted with the work in connection with Assembly interpellations, gets an honorarium during the Delhi Session and travelling allowance and daily allowance during the Simla Session of the Legislative Assembly?

(b) Has this work been ever entrusted to a Muslim Assistant?

(c) If the reply to part (b) be in the negative, will Government be pleased to state the reason?

The Honourable Sir Frank Noyce: (a) Clerical work in connection with Assembly interpellations is done by many assistants, in respect of one of whom, whose work in that respect is specially heavy, the fact is as stated.

(b) No. Muslim Assistant has so far been in charge of the special work mentioned in the reply to part (a).

(c) Communal considerations are not ordinarily taken into account in arranging the distribution of work in an office.

COMMUNAL REPRESENTATION CASES IN THE OFFICE OF THE DIRECTOR GENERAL, POSTS AND TELEGRAPHS.

1381. *Seth Haji Abdoola Haroon: (a) Is it a fact that in the office of the Director-General, Posts and Telegraphs, cases about communal representation are dealt with by a Hindu clerk and that the Superintendent of the Section in which such cases are dealt with is also a Hindu?

(b) Do Government propose to consider the desirability of having communal representation cases dealt with by a Muslim clerk?

The Honourable Sir Frank Noyce: (a) While it is a fact that the Superintendents of the sections concerned with such cases are Hindus, it is not a fact that all such cases are dealt with by a Hindu clerk. They are handled by various clerks of the sections concerned some of whom are

†For answer to this question, see answer to question No. 1378.

Muslims. Such matters are not, in any event, disposed of either by clerks or Superintendents but by the Gazetted staff of the Directorate, and I may mention that the Gazetted Officer in charge of the branch which deals with most of them happens to be a Muslim. Final orders in connexion with such matters are generally passed by the Director General himself or by another European officer. I must not however be understood as accepting the Honourable Member's implication that in any case officers of one community can not be trusted to deal quite fairly with matters affecting other communities. That I am glad to have this opportunity of saying is not borne out by my experience of the office of the Director General, Posts and Telegraphs. (Applause.)

(b) No. The Honourable Member's attention is invited to the reply given in this House by the Honourable Sir James Crerar on the 16th September, 1931, to Mr. Muhammad Anwar-ul-Azim's starred question No. 840.

FILLING UP OF VACANCIES IN THE OFFICE OF THE DIRECTOR GENERAL, POSTS AND TELEGRAPHS.

1382. *Seth Haji Abdoola Haroon: (a) Is it a fact that in the office of the Director General, Posts and Telegraphs, old officials with more or less 25 years' service whose volunteership for retirement was accepted by Government were re-appointed in the same office?

(b) Will Government be pleased to state the exact reason for re-employing these volunteers?

(c) Has the attention of Government been drawn to the letter published on page 8 of the *Postal Advocate* of August 1932, under the heading "Vacancies in Director-General's Office how filled in"?

(d) If so, what action has been taken in the matter?

The Honourable Sir Frank Noyce: (a) Yes.

(b) Government adopted the policy of re-employing, in lower paid posts which had to be filled, retrenched officials in order to mitigate hardship to men who were considered suitable for re-employment and were discharged as a measure of economy before attaining the age of superannuation.

(c) Government have seen the letter in question.

(d) None, as in view of the policy mentioned in the reply to part (b), none appeared called for.

FILLING UP OF VACANCIES IN THE OFFICE OF THE DIRECTOR GENERAL, POSTS AND TELEGRAPHS.

1383. *Seth Haji Abdoola Haroon: (a) Will Government be pleased to state how many vacancies in the clerical cadre have been filled up in the office of the Director General, Posts and Telegraphs, since April 1932?

(b) How many of these vacancies have been given to Muslims?

(c) How many vacancies are still remaining to be filled up?

The Honourable Sir Frank Noyce: (a) Twenty.

(b) Three. Offers of employment were made by the Public Service Commission to two more Muslims, one of whom refused to accept and the other resigned after working for three days only.

(c) Three.

ALLEGED PARTIALITY IN THE ALLOTMENT OF QUARTERS TO THE ASSISTANTS AND CLERKS IN THE OFFICE OF THE DIRECTOR GENERAL, POSTS AND TELEGRAPHS.

1384. *Seth Haji Abdoola Haroon: (a) Are Government aware that a good deal of partiality exists in the allotment of departmental quarters to the assistants and clerks in the office of the Director-General, Posts and Telegraphs?

(b) Are Government aware that some applications from Muslim clerks establishing priority of claim for the allotment of quarters are neither referred to the members of the board for the allotment of departmental quarters, nor submitted to the Deputy Director General for orders, but are conveniently disposed of by the Chief Superintendent himself?

(c) Are Government prepared to issue orders to the effect that all applications for departmental quarters must either be referred to the members of the board for the allotment of departmental quarters or submitted to the Deputy Director-General for final orders?

(d) Will Government kindly state what principle is followed in ascertaining priority of claims in the allotment of departmental quarters?

Mr. T. Ryan: (a) No.

(b) No, all applications for quarters are disposed of by a board consisting of officials of the Director General's Office presided over by a gazetted officer.

(c) In view of the replies to parts (a) and (b) of this question, Government see no reason to depart from the existing procedure.

(d) Priority of claim is decided according to the provisions in the 'Rules governing the allotment and conditions of occupation of Government residences and quarters in Delhi', a copy of which has been placed in the Library of the House.

BURGLARY IN THE DILKUSHA AND ARAMBAGH SQUARES IN NEW DELHI.

1385. *Mr. M. Maswood Ahmad: (a) Has the attention of Government been drawn to an article on page 7 of the *Hindustan Times*, dated the 1st November, 1932, headed "Burglars Pose as Policemen—Diwali Night Sensation in New Delhi"? If so, will they be pleased to state whether:

(i) the quarters in Dilkusha and Arambagh Squares are situated in an out-of-the-way place and are often frequented by thieves; and

(ii) the police patrols do not visit these places during the night?

(b) Do Government realise their responsibility in the matter of protecting the lives and property of their employees who are allotted these quarters which are very far from the inhabited areas? If so, what steps have they taken to prevent such occurrences in the future?

(c) Is it a fact that the residents of these quarters submitted petitions in this connection to the Superintendent of Police, Delhi, and the Estate Officer? If so, what action has so far been taken on these petitions? If no action has yet been taken, what is the reason for the delay?

(d) Are Government prepared to issue immediate instructions to the local authorities for sending out regular police patrols during the night to these places and to bind down suspected persons living near or about these quarters?

The Honourable Mr. H. G. Haig: I have seen the article to which the Honourable Member refers and have asked the local authorities for a report as to facts on receipt of which I will lay a statement on the table. I understand however that no petition of the nature referred to in part (c) of the question was made to the Estate Officer by the residents of the locality.

Mr. M. Maswood Ahmad: Will Government kindly inquire from the Estate Officer whether he has received any petition from these clerks?

The Honourable Mr. H. G. Haig: I have just informed the House that we have inquired from the Estate Officer and he has received no petition.

REFUSAL BY THE THIRD PRESIDENCY MAGISTRATE, EGMORE, TO EXAMINE MR. SUBHAS CHANDRA BOSE IN HIS COURT.

1386. *Pandit Satyendra Nath Sen: (a) Are Government aware that in the beginning of September, 1932, the Third Presidency Magistrate refused to examine in his Court at Egmore, Mr. Subhas Chandra Bose, the State Prisoner in the Penitentiary, as a defence witness in the case against Mr. Shanker?

(b) If the answer to the above be in the affirmative, will Government please state under what authority the Magistrate refused such examinations? If the Magistrate acted under Government orders, will Government state under what law they issued such orders?

(c) Is it not a fact that in the course of the debates on the Bengal Detenu Transfer Bill in the Legislative Assembly, the Home Member of the Government of India assured the Assembly that whenever any State Prisoner or detenu would be required to be produced in a Court of law for the purpose of evidence, he would be permitted to be examined?

(d) If so, why was the permission refused in the case of Mr. Subhas Chandra Bose who was then in the Penitentiary, Madras?

(e) Is it also a fact that the said Magistrate held his Court inside the Penitentiary in September, 1932, for the purpose of examining Mr. Bose, but did not allow the public and the press to be present?

(f) Is it a fact that when asked by the accused the Magistrate said that the trial was a public one?

(g) Will Government be pleased to state why the public and the press were not allowed and, under what law, the Magistrate excluded them?

The Honourable Mr. H. G. Haig: (a) and (b). The Third Presidency Magistrate refused to examine Mr. Bose in his Court at Egmore as in accordance with Rule 20 of the Criminal Rules of Practice issued by the Madras High Court, the evidence of State Prisoners should be recorded in jail, unless the Local Government sanction transfer to the Court. The Government of Madras did not give sanction, as no adequate reasons were advanced.

(c) and (d). The Honourable Member is no doubt referring to the undertaking given on behalf of Government by the Honourable the Law Member during the debate on the Bengal Criminal Law Amendment (Supplementary) Bill, 1982, that where any High Court desired the presence of a detenu as a witness in any trial before it, the detenu would be produced. The point does not arise in this case as no application requiring the presence of the State Prisoner as a witness was received from any Court.

(e), (f) and (g). The Magistrate held his Court in the jail to take the State Prisoner's evidence and excluded the public and press in exercise of the discretion vested in him by section 352 of the Criminal Procedure Code.

RECOVERY OF INDIAN INCOME-TAX ON PENSIONS PAID OUTSIDE INDIA.

1387. *Mr. M. Maswood Ahmad: (a) Are Government aware that the territorial limitations imposed on the powers of the Indian Legislature by section 65 of the Government of India Act render it impossible for the Indian Legislature to make effective provision for the recovery of Indian income-tax on pensions paid to persons resident outside India?

(b) Do Government propose to draw the attention of the Indian delegates to the Round Table Conference and of the British Government to the defect in the present Government of India Act mentioned in part (a)?

The Honourable Sir George Schuster: (a) That is the view of the legal position held by the Government of India.

(b) The Government of India do not propose to take the action suggested.

TRADE AGREEMENT AT OTTAWA IN RESPECT OF THE EXPORT AND IMPORT OF CERTAIN ARTICLES.

1388. *Mr. M. Maswood Ahmad: (a) Will Government be pleased to state whether, while reaching the Agreement at Ottawa between His Majesty's Government in the United Kingdom and the Government of India, they were aware of.

- (i) the quantity and value of (1) Wheat in grain (2) Rice, husked including cargo rice and cleaned rice whole, but not including broken rice (3) Castor oil, linseed oil, cocoanut oil, ground-nut oil, rape oil, and sesamum oil (4) Magnesium Chloride (5) Linseed (6) Coffee (7) Tea (8) Coir yarn (9) Coir mats and matting (10) Cotton yarns, unbleached, up to No. 40 Count (11) Cotton manufactures (12) Leather undressed-hides other than sole leather (13) Leather undressed-skins (14) Jute manufactures (15) Oil seed cake and meal (16) Paraffin wax (17) Spices (18) Teak and other hardwoods, whether hewn or sawn, in so far as now subject to duty (19) Woollen carpets and rugs (20) Barn and pollard (21) Rice meal and dust (22) Tobacco (23) Castor seed (24) Magnesite (25) Sandalwood oil (26) Granite seats and curbs (27) Ground-nuts (28) Lead (29) Shellac, seed lac and stick lac (30) Jute, raw (31) Myrabolams (32) Rice, broken (33) Mica slabs and splittings (34) Crotalaria juncea and any other varieties of Indian hemp that can be distinguished (each article separately); exported from Indian ports in the last five years (each year separately);

(ii) the quantity and value of the articles mentioned in part (i) (each article separately) exported from Indian ports to the ports in the United Kingdom in the last five years (each year separately); and

(iii) the total quantity and value of the articles mentioned in part (i) (each article separately) imported into the ports in the United Kingdom (each year separately)?

(b) Will Government be pleased to lay on the table a statement showing separately for the last five years the quantity and value of the articles mentioned in part (i) (each article separately) (1) exported from Indian ports (2) exported from Indian ports to the ports in the United Kingdom and (3) imported in the ports in the United Kingdom?

(c) Will Government be pleased to state the reasons for excluding the sole leather from Schedule (c) under Article 4 of the Agreement?

The Honourable Sir Joseph Bhore: With your permission, Sir, I propose to answer questions Nos. 1388 to 1396 together. The reply to parts (a) of each of these questions is, as regards the great majority of the items named, in the affirmative. As regards parts (b), generally all the information required is available in the Annual Statements of the Sea-borne Trade of British India, the Annual Statements of the Trade of the United Kingdom with Foreign and British Countries and the Trade Accounts of Ceylon and British Malaya. Statistics supplied to the Indian Delegation were not prepared in the form indicated in the Honourable Member's question. The mere extraction and compilation of these statistics in the form in which he has asked for them would require a very large amount of labour and expenditure of time. In view particularly of the fact that my Department has had very heavy calls made upon it in connection with the supply of statistical information to the Committee of this House which is examining the Trade Agreement, the special compilation of the voluminous statistics asked for by the Honourable Member could not have been undertaken at the present time without the employment of additional staff. I would, however, mention that copies of the Annual Statements of the Sea-borne Trade of British India are in the Library of the Legislature and, if desired by the Honourable Member, I shall arrange for the supply of copies of the other Trade Accounts which I have mentioned.

Parts (c) of questions Nos. 1388 and 1389. There are no imports of "Sole leather" as such into the United Kingdom from India and no exports of "Lead Sheets" from India.

Mr. M. Maswood Ahmad: Will the Honourable Member be pleased to give the information asked in those parts of these questions which deal with the Sea-borne Trade of the United Kingdom? Further, will the Honourable Member realise what is difficult for Government can not be easy for us?

The Honourable Sir Joseph Bhore: Yes, it will be found there, and if any further information is necessary on that point, my Honourable friend may rely upon my helping him to obtain it.

Mr. M. Maswood Ahmad: May I take it that the Honourable Member will send this information to us?

The Honourable Sir Joseph Bhore: I said that the information is already there, and if there is any information which he cannot obtain from there, and if he will apply to me, I shall then try and assist him as much as I can.

Mr. M. Maswood Ahmad: May I inform the Honourable Member that the information which I want is not available in the Library?

The Honourable Sir Joseph Bhore: I think I have explained the matter quite clearly. I say that most of the information is available in the Annual Statements of the Sea-borne Trade of British India, and if the Honourable Member desires, I shall supply copies of the other trade returns I have referred to.

Dr. Ziauddin Ahmad: Will the Honourable Member be pleased to supply the two Statements together, I mean the Annual Statement of the Sea-borne Trade of British India and the Annual Statement of the Trade of the United Kingdom?

The Honourable Sir Joseph Bhore: I shall be only too happy to do so.

TRADE AGREEMENT AT OTTAWA IN RESPECT OF THE EXPORT AND IMPORT OF CERTAIN ARTICLES.

†1389. ***Mr. M. Maswood Ahmad:** (a) Will Government be pleased to state whether, while reaching the Agreement at Ottawa between His Majesty's Government in the United Kingdom and the Government of India, they were aware of:

(i) the quantity and value of (1) Cotton piece-goods (2) Cotton yarn (3) Fresh fruits and vegetables (4) Dried, salted and preserved fruits and vegetables (5) Big lead (but not lead sheets, tea lead or foil) (6) Iron and Steel (7) Teak and other hardwoods (8) Perfumery (9) Coriander seed (10) Beans (11) Apparel (12) Boots and shoes (13) Woollen carpets and rugs (14) Tea (15) Coffee, raw, roasted or ground (16) Tobacco manufactures (each article separately) exported from Indian ports in the last five years (each year separately);

(ii) the quantity and value of the articles mentioned in part (i) (each article separately) exported from Indian ports to the ports in Ceylon in the last five years (each year separately);

(iii) the total quantity and value of the articles mentioned in part (i) (each article separately) imported into the ports in Ceylon in last five years (each year separately)?

(b) Will Government be pleased to lay on the table a statement showing separately for the last five years the quantity and value of articles mentioned in part (i) (each article separately) (1) exported from Indian ports (2) exported from Indian ports to the ports in Ceylon and (3) imported into the ports in Ceylon?

(c) Will Government be pleased to state the reasons for excluding the lead sheets from the Schedule E, under article 9. of the agreement?

†For answer to this question, see answer to question No. 1388.

TRADE AGREEMENT AT OTTAWA IN RESPECT OF THE EXPORT AND IMPORT OF CERTAIN ARTICLES.

†1390. ***Mr. M. Maswood Ahmad:** (a) Will Government be pleased to state whether, while reaching the Agreement at Ottawa between His Majesty's Government in the United Kingdom and the Government of India, they were aware of:

(i) the quantity and value of the (1) Tanned hides and skins (2) Brass, bronze, brassware and bronzeware (3) Copper and copperware (4) Paraffin wax (5) Perfumery (6) Ground-nuts (7) Cotton piece-goods (8) Fishmaws and sharkfins (9) Ground-nut oil (kachang oil) (10) Gingelly oil (each article separately) exported from Indian ports in the last five years (each year separately);

(ii) the quantity and value of the articles mentioned in part (i) (each article separately) exported from Indian ports to the ports in British Malaya in the last five years (each year separately);

(iii) the total quantity and value of the articles mentioned in part (i) (each article separately) imported in the ports in British Malaya in the last five years (each year separately)?

(b) Will Government be pleased to lay on the table a statement showing separately for the last five years the quantity and value of articles mentioned in part (i) (each article separately) (1) exported from Indian ports (2) exported from Indian ports to the ports in British Malaya and (3) imported into the ports in British Malaya?

TRADE AGREEMENT AT OTTAWA IN RESPECT OF THE EXPORT AND IMPORT OF CERTAIN ARTICLES.

†1391. ***Mr. M. Maswood Ahmad:** (a) Will Government be pleased to state whether, while reaching the Agreement at Ottawa between His Majesty's Government in the United Kingdom and the Government of India, they were aware of:

(i) the quantity and value of (1) articles free of duty under Part I of Schedule II of the Indian Tariff Act (2) articles dutiable under the following entries in Part II of Schedule II of the Indian Tariff Act:—27A, 29, 48A, 43B, 45B, (3) Articles dutiable under Part III of Schedule II of the Indian Tariff Act (4) Articles dutiable under Part IV of Schedule II of the Indian Tariff Act, excepting entries numbers 60, 61 and 62 (5) Articles which are liable to protective duty at special rates under Part VII of Schedule II of the Indian Tariff Act (each article separately) imported into Indian ports in the last five years (each year separately);

(ii) the quantity and value of the articles mentioned in part (i) (each article separately) imported into Indian ports from the ports in the United Kingdom in the last five years (each year separately);

(iii) the total quantity and value of the articles mentioned in part (i) (each article separately) exported from the ports in the United Kingdom in the last five years (each year separately)?

†For answer to this question, see answer to question No. 1388.

(b) Will Government be pleased to lay on the table a statement showing separately for the last five years the quantity and value of the articles mentioned in part (i) (each article separately) (1) imported into Indian ports (2) imported into Indian ports from the ports in the United Kingdom and (3) exported from the ports in the United Kingdom?

TRADE AGREEMENT AT OTTAWA IN RESPECT OF THE EXPORT AND IMPORT OF CERTAIN ARTICLES.

†1892. *Mr. M. Maswood Ahmad: (a) Will Government be pleased to state whether, while reaching the Agreement at Ottawa between His Majesty's Government in the United Kingdom and the Government of India, they were aware of:

(i) the quantity and value of the articles (1) Apparel (including drapery, uniforms, accoutrements), (2) Apparel—caps, bonnets and hatters' ware, (3) Apparel—secondhand clothing, (4) Filled cartridge cases, (5) Empty cartridge cases, (6) Firearms, (7) Asbestos manufactures, (8) Boots and Shoes of leather, Brushes and Brooms, (9) Brushes (paint and varnish), (10) Toilet brushes, (11) Brushes (other than toilet and paint and varnish), (12) Firebricks, (13) Cement, Portland, (14) Cement, other than Portland, (15) Tiles, other than glass tiles, (16) Other kinds (except asphalt, bricks, chalk, lime and clay), (17) Buttons, metal (18) Tartaric acid, (19) Other acids (except acetic, carbolic, oxalic and tartaric), (20) Anhydrous ammonia, (21) Other ammonia and salts thereof, (22) Disinfectants other than naphthalene, (23) Bichromate of potassium, (24) Potassium compounds, other sorts (except chlorate and cyanide), (25) Bichromate of soda, (26) Cyanide of sodium, (27) Caustic soda, (28) Sodium carbonate (soda ash and soda crystals), (29) Soda compounds, other (except bicarbonate, borax and sodium silicate), (30) Other sorts of chemicals (except those indicated above as separately distinguished and except alum, arsenic, calcium carbide, glycerine, lead compounds, ferrous sulphate, magnesium compounds, sulphur and zinc compounds), (31) Cocos and Chocolate, (32) Confectionery, (33) Cordage and Rope of Vegetable Fibre (excluding jute and cotton), (34) Cork Manufactures, (35) Cutlery (except pruning knives), (36) Proprietary and patent medicines, (37) Other sorts (except aloes, asafetida, camphor, cocaine morphia), (38) Earthenware, except pipes and sanitary ware, (39) Porcelain, electrical, (40) Porcelain, other kinds, (41) Bedsteads, (42) Wooden furniture other than bedsteads, (43) Furniture of other materials, except bedsteads, (44) Glue, (45) Builders hardware such as locks, hinges, door bolts, etc., (46) Domestic, other than enamelled iron-ware, (47) Enamelled iron-ware, (48) Gas mantles, (49) Implements and tools other than agricultural implements and machine tools (each article separately) imported into Indian ports in the last five years (each year separately);

(ii) the quantity and value of the articles mentioned in part (i) (each article separately) imported into Indian ports from the ports in the United Kingdom in the last five years (each year separately); and

†For answer to this question, see answer to question No. 1392.

(iii) the total quantity and value of the articles mentioned in part (i) (each article separately) exported from the ports in the United Kingdom in the last five years (each year separately)?

(b) Will Government be pleased to lay on the table a statement showing separately for the last five years the quantity and value of the articles mentioned in part (i) (each article separately) (1) imported into Indian ports, (2) imported into Indian ports from the ports in the United Kingdom, and (3) exported from the ports in the United Kingdom?

TRADE AGREEMENT AT OTTAWA IN RESPECT OF THE EXPORT AND IMPORT OF CERTAIN ARTICLES.

†1893. *Mr. M. Maswood Ahmad: (a) Will Government be pleased to state whether, while reaching the Agreement at Ottawa between His Majesty's Government in the United Kingdom and the Government of India, they were aware of:

(i) the quantity and value of the articles (1) Lamps, metal, (2) Parts of lamps, other than glass, (3) Safes and strong boxes of metal, (4) Stoves, (5) Other sorts (except agricultural implements, buckets of tinned or galvanised iron, lamps of glass), (6) Electric fans and parts thereof, (7) Electric wires and cables, (8) Standard lighting lamps, (9) Batteries, (10) Accumulators (including parts) in so far as they are subject to duty under No. 42A of Schedule II of the Indian Tariff Act, (11) Accumulators (including parts) in so far as they are subject to duty under 42A of Schedule II of the Indian Tariff Act, (12) Electric lighting accessories and fittings (including switches), (13) Meters (other than telegraphic and telephonic), except meters, (14) Other electrical instruments (other than telegraphic and telephonic), except meters, (15) Electro-medical apparatus (including X-ray), (16) Other electrical goods and apparatus (except electric wires and cables, telegraph and telephone instruments and apparatus, flash light, part and accessories of electric lamps, carbons, condensers, bell apparatus and switch boards), (17) Pianos and piano players, complete, (18) Talking machines and accessories (except records), (19) Other musical instruments and parts (except organs and harmoniums complete, and talking machines and records), (20) Cinematograph films, raw, i.e., blank films on which no picture has been impressed, (21) Photographic, other than above enumerated and exposed cinematograph films, (22) Photographic plates and papers, (23) Scientific and philosophical, (24) Surgical, (25) Wireless apparatus in so far as it is dutiable under No. 43 of Schedule II of the Indian Tariff Act, (26) Other instruments, etc., not indicated above as separately distinguished in the Trade Returns (except optical), including domestic refrigerators, (27) Skins, tanned or dressed, (28) Unwrought, (29) Leather cloth (including artificial leather), (30) Other manufactures of leather (except pickers, roller skins, saddlery and harness

†For answer to this question, see answer to question No. 1393.

[Sir Hari Singh Gous.] made, the policeman will say: "Here is an Act of the Indian Legislature, passed by the will and with the concurrence of a body in which the elected Members were in a majority and I am carrying out my lathi charge in the name of that body". The position is different to what it was when the Ordinances were on the Statute-book and you did not share the responsibility of enacting them. Our position on the present occasion is grave and solemn and I wish to warn the Government that whatever may be the temptation for the promulgation of Ordinances, we shall not be hurried into a hasty piece of legislation of the legality of which we are not certain, of the impropriety of which we are certain; and I, therefore, ask this House to give time to consider. When my Honourable friend, Mr. Sadiq Hasan, moved his motion for circulation, some Honourable Members got up and said, "What do you want this circulation for?" It really makes one sad to think that there are Members in this House who can talk in that spirit of levity. Knotty questions of constitutional law, questions which must have baffled the Government, questions as to how far the Indian Legislature can abrogate the fundamental rights upon which is based every oath of allegiance, and the power of the Indian Legislature—these are the questions which we should like the High Courts to consider and give their opinions upon. Can the Honourable the Home Member deny that that is an avenue of approach which is not reasonable? We should further like the Honourable the Home Member to consult Governments, like the Governments of Ajmer Merwara, Baluchistan and Coorg and the Sonthal Parganas as to whether they want any Press Act, because, I find from the operative clause of this Bill that the whole of this Act, except sections 4 and 7, are to apply to the whole of British India. I should like to know whether the whole of this Act, barring these two sections, are necessary in all these tracts where the civil disobedience movement is not even heard of. Further, I should like to know whether the Local Governments in all the Provinces have constructed those fine castles in the air to which my Honourable friend, the Home Member, referred in his opening speech, which are to rest upon the imaginary foundation of this Bill, not yet enacted into law. I have seen from the newspaper reports that in Bengal and the United Provinces, in the Punjab and the Frontier Province, they have reared up a superstructure on the imaginary foundation of this Bill; but I have not heard whether all the Provinces have done the same and, if they have not, I presume that they do not consider the necessity for this Bill. We should then be enacting for places and persons who are wholly unaffected by the provisions of this Bill and I cannot understand why this large and all-embracing measure is to apply even to tracts wholly unaffected by the civil disobedience movement. These are the general considerations which naturally make me pause before I can give my vote in favour of the further progress of this Bill; and when my friend, Mr. Sadiq Hasan, wants the circulation of this Bill, he is not asking for anything impossible. You will have a chance between now and January or February when we next meet to have the expert opinions of the High Courts, the opinions of the Local Governments to be affected and not to be affected and there would be time then to make further progress with this Bill. In the meantime I find that the atmosphere is highly uncongenial to the further progress of this Bill. I see in the country around me cries of peace from everywhere, unity conferences, and such like are the order of the day; and I was only yesterday reading a cable sent from England to the effect

that the Secretary of State had been assured that the civil disobedience movement was dead and the power of the Congress crushed. If that is the case, I ask you, is it not time to cry halt to your repressive policy? Give the country a little breathing time and it may be that the difficulties which you apprehend and from which you say you are suffering will solve themselves by the short lapse of time. There is, therefore, everything to be gained and nothing to be lost by acceding to the motion of my Honourable friend for circulation. It is not a dilatory motion. If it were a dilatory motion, I would have voted against it, but I have been thinking within myself and, I am sure, there are many behind me who have been doing the same and taking counsel with me as to what I consider to be the right course to follow on this occasion, and with the weight of my responsibility to advise them, I feel that I should be guilty of gross dereliction of my duty as a Member of this House, as a representative of the public, if I did not tell Honourable Members on the other side of the House as to what I think of this Bill, and in what respect does this Bill require further improvement before it can be enacted into law. It does not matter whether it goes to the Select Committee or not. I am not in favour of a Select Committee, because the Select Committee may or may not consider the various intricate provisions of the Bill, but the Honourable the Home Member understands what we want, and, if he has got an answer, he will give it, but if he has not got an answer, he will give us an argument, and we shall see what to do with the argument without an adequate answer.

Sir, I do not wish to detain this House, but, passing in critical review, I shall only refer to a few clauses which, I submit, require drastic changes. In the first place, I should like this Bill to be only applied to provinces where there has been the civil disobedience movement and where the recrudescence of the civil disobedience movement is either imminent or is probable. In the second place,—I may be alone, I do not care,—but I shall be constrained to vote against any provision in this Act which gives the executive the right of taking away a man's property without giving him the right to obtain redress in a Court of law.

Then, Sir, in this Bill—our Labour Member is not present; he is absent performing other public duties,—there is clause 3, the provisions of which would prevent any concerted action by the Trade Unions, though the Trade Unions have been recognised as lawful Organisations and Associations by the Government. They may have grievances of their own unconnected with the civil disobedience movement, and you will still, under the provisions of this Act, prevent them from ventilating their grievances in the only way in which they have the power to ventilate their grievances.

Then, Sir, there are drastic penalties against picketing, and the justification against picketing is that picketing is a part of the civil disobedience campaign. Six long before the civil disobedience movement started, we reformers, and you, Sir, and a great many others, were interested in temperance and in Swadeshi, and if there are a large number of people,—and the Honourable the Law Member rightly pointed out that Congress was not the people of India,—there are a very large number of people who are interested in this necessary measure of social reform. They want that the people should use indigenous articles, they want that people should be persuaded to refrain from drinking. Are they singular? In that great trans-Atlantic republic, the United States of America, people, flock of your

and bags and trunks), (81) Ale and beer in bottle, (82) Ale and beer in other containers including barrels, (83) Spirit present in drugs, medicines or chemicals, (84) Spirit, perfumed, (85) Machinery and Millwork, all sorts subject to duty under No. 96 of the Indian Tariff Act, including sewing and knitting machines and parts thereof, and typewriters and parts thereof (each article separately) imported into Indian ports in the last five years (each year separately);

(ii) the quantity and value of the articles mentioned in part (i) (each article separately) imported into Indian ports from the ports in the United Kingdom in the last five years (each year separately); and

(iii) the total quantity and value of the articles mentioned in part (i) (each article separately) imported from the ports in the United Kingdom in the last five years (each year separately)?

(b) Will Government be pleased to lay on the table a statement showing separately for the last five years the quantity and value of the articles mentioned in part (i) (each article separately), (1) imported into Indian ports, (2) imported into Indian ports from the ports in the United Kingdom, and (3) exported from the ports in the United Kingdom?

TRADE AGREEMENT AT OTTAWA IN RESPECT OF THE EXPORT AND IMPORT OF CERTAIN ARTICLES.

†1894. *Mr. M. Maswood Ahmad: (a) Will Government be pleased to state whether, while reaching the Agreement at Ottawa between His Majesty's Government in the United Kingdom and the Government of India, they were aware of:

(i) the quantity and value of the articles (1) Aluminium circles, (2) Aluminium sheets, (3) Other aluminium manufactures (except unwrought ingots, blocks, bars, etc.), (4) Wrought mixed or yellow metal for sheathing (Brass, bronze and similar alloys and manufactures thereof), (5) Wrought: Rods (Brass, bronze and similar alloys and manufactures thereof), (6) Wrought: Sheets, (7) Wrought: Tubes, (8) Wrought: Wire, (9) Wrought: Other sorts, (10) Wrought: Rods, (11) Wrought: Sheets, (12) Wrought: Tubes, (13) Wrought: Wire, excluding telegraph and telephone, (14) Other copper manufactures (except braziers), (15) German silver (including nickel silver), (16) Iron and steel, all sorts, which are subject to duty under Nos. 60, 61, 62 and 97 of Schedule II of the Indian Tariff Act, (17) Pipes and tubes, (18) Sheets (other than sheets for tea chests), (19) Wrought or manufactured (Zinc or spelter), (20) Fish oil, (21) Essential—synthetic, (22) Natural essential oils (except almond, bargomot, kajuputti, camphor, cloves, eucalyptus, lavender, lemon, otto rose and peppermint), (23) Lubricating (mineral) other than batching, (24) mineral, paints, solutions and composition, dangerous, flashing below 76°F., (25) Vegetable non-essential oils (except coconut, groundnut and linseed), (26) oil-cloth and floor-cloth, (27) packing: engine and boiler

†For answer to this question, see answer to question No. 1388.

(28) of all kinds (excluding asbestos), (29) Blue paint or Paris blue, (30) Enamels, prepared, (31) Red lead, genuine dry, (32) White lead, genuine dry, (33) Zinc white, genuine dry, (34) Other sorts (except barytes, graphite reduced dry red lead and white lead, moist white lead, reduced dry zinc white and moist zinc white), (35) Goods, other than turpentine and turpentine substitute and varnish (Other than Paints and Colours), (36) Packing paper, (37) Printing paper, except newsprint, (38) Writing paper in large sheets, (39) Envelopes imported separately, (40) Other kinds of paper (except "Note and letter paper and envelopes" and old newspaper in bales and bags), (41) Paper manufactures, (42) Other than starboards (Pasteboard, millboard and cardboard of all kinds), (each article separately) imported into Indian ports in the last five years (each year separately);

(ii) the quantity and value of the articles mentioned in part (i) (each article separately) imported into Indian ports from the ports in the United Kingdom in the last five years (each year separately); and

(iii) the total quantity and value of the articles mentioned in part (i) (each article separately) exported from the ports in the United Kingdom in the last five years (each year separately)?

(b) Will Government be pleased to lay on the table a statement showing separately for the last five years the quantity and value of the articles mentioned in part (i) (each article separately), (1) imported into Indian ports, (2) imported into Indian ports from the ports in the United Kingdom, and (3) exported from the ports in the United Kingdom?

TRADE AGREEMENT AT OTTAWA IN RESPECT OF THE EXPORT AND IMPORT OF CERTAIN ARTICLES.

†1895. *Mr. M. Maswood Ahmad: (a) Will Government be pleased to state whether, while reaching the Agreement at Ottawa between His Majesty's Government in the United Kingdom and the Government of India, they were aware of:

(i) the quantity and value of the articles (1) Manufactures of pasteboard, millboard and cardboard, (2) Canned or bottled fruits, (3) Tinned or canned fish, (4) Other canned and bottled provisions n. e. s. (except vegetable products—vegetable oil and fat, etc.), (5) Milk, condensed and preserved including milk cream, (6) Pneumatic motor covers, (7) Pneumatic motor tubes, (8) Pneumatic motor cycle covers, (9) Pneumatic cycle covers, (10) Pneumatic cycle tubes, (11) Solid rubber tyres for motor vehicles, (12) Other manufactures except apparel, boots and shoes (and except pneumatic motor cycle tubes), (13) smokers' requisites (excluding tobacco), (14) soap: toilet, (15) Stationery (excluding paper), pencils (excluding slate pencils), (16) Other sorts, (17) Lace and embroidery, (18) Other sorts (except towels not in the piece), (19) Worsted yarn for weaving, (20) Knitting wool, (21) Carpets and floor rugs, (22) Hosiery, (23) Piece-goods, (24)

†For answer to this question, see answer to question No. 1388.

Shawls, (26) Other sorts (except blankets and rugs), (26) Toilet requisites not specified elsewhere in the Trade returns, (27) Toys (requisites for games and sports excluding fire-arms, etc.), (28) Playing cards, (29) Other, (30) Umbrellas, and umbrella fittings, (31) Carriages and carts not mechanically propelled (excluding railway carriages, trucks, etc.), (32) Parts of carriages and carts (excluding rubber tyres), (33) Cycles (other than motor cycles) imported entire or in sections, (34) Parts of cycles and accessories (other than of motor cycles) (excluding rubber tyres), (35) Motor cars (including taxi-cabs), (36) Motor omnibuses, (37) Chassis of Motor omnibuses, motor vans and motor lorries, (38) Parts of mechanically propelled vehicles and accessories other than of aircraft (excluding rubber tyres), (39) Canvas, cotton, (40) Shawls, in the piece, cotton, (41) Lace and patent net, cotton, (42) Fents, cotton, nine yards long or less, (43) Other sorts of cotton manufactures (excluding twist and yarn, piece-goods, thread for sewing, blankets, handkerchiefs in the piece, hosiery, rope and towels in the piece), (44) Lace and embroidery, (45) Other sorts of haberdashery and millinery, (46) Silk manufactures, excluding yarn, noils and warps, piece-goods and thread for sewing, (47) Goods of silk mixed with other materials, excluding twist and yarn, piece-goods and thread for sewing, (48) artificial silk manufactures, excluding yarn, piece-goods and thread for sewing, (49) Goods of artificial silk mixed with other materials, excluding twist and yarn piece-goods and thread for sewing (each article separately) imported into Indian ports in the last five years (each year separately);

(ii) the quantity and value of the articles mentioned in part (i) (each article separately) imported into Indian ports from the ports in the United Kingdom in the last five years (each year separately); and

(iii) the total quantity and value of the articles mentioned in part (i) (each article separately) exported from the ports in the United Kingdom in the last five years (each year separately)?

(b) Will Government be pleased to lay on the table a statement showing separately for the last five years the quantity and value of the articles mentioned in part (i) (each article separately), (1) imported into Indian ports, (2) imported into Indian ports from the ports in the United Kingdom, and (3) exported from the ports in the United Kingdom?

TRADE AGREEMENT AT OTTAWA IN RESPECT OF THE EXPORT AND IMPORT OF CERTAIN ARTICLES.

+1396. *Mr. M. Maswood Ahmad: (a) Will Government be pleased to state whether, while reaching the Agreement at Ottawa between His Majesty's Government in the United Kingdom and the Government of India, they were aware of:

(i) the quantity and value of the articles (1) Asphalt, (2) Beeswax, (3) Soda ash, including calcined, natural soda and manufactured sesqui-carbonates, (4) Gum Arabic, (5) Gum benjamin,

+For answer to this question, see answer to question No. 1368.

res and cowrie, (6) Gum dammer, (7) Dammer batuh, unrefined, (8) Rosin, (9) Cutch, (10) Gambier, all sorts, (11) Citronella oil, (12) Cinnamon oil, (13) Cinnamon leaf oil, (14) Coconuts, husked, unhusked and other kinds, copra or coconut kernal, coconut oil, coir fibre, coir yarn, coir mats and matting, (15) Fish, dry unsalted, (16) Fish, dry salted, (17) Fish, canned, (18) Fresh vegetables, (19) Vegetables, dried, salted or preserved, (20) Fruit and vegetables, canned and bottled, (21) Fruit juices, (22) Sisal and alse fibre, (23) Ivory, unmanufactured, (24) Oil seeds (other than essential), (25) Plumbago, (26) Sago and tapioca (but not sago flour), (27) Vanilla beans, (28) Fresh fruits (other than coconuts), (29) Dried, salted or preserved fruits, (30) Betelnuts, (31) Unground spices, (32) Bitters, (33) Coffee, (34) Rum, (35) Tea, (36) Unmanufactured tobacco (each article separately) imported into Indian ports in last five years (each year separately);

(ii) the quantity and value of the articles mentioned in part (i) (each article separately) imported into Indian ports from the ports in the United Kingdom in the last five years (each year separately); and

(iii) the total quantity and value of the articles mentioned in part (i) (each article separately) exported from the ports in the United Kingdom in the last five years (each year separately)?

(b) Will Government be pleased to lay on the table a statement showing separately for the last five years the quantity and value of the articles mentioned in part (i) (each article separately) (1) imported into Indian ports, (2) imported into Indian ports from ports in the United Kingdom and (3) exported from ports in the United Kingdom?

TERMINAL TAX ON PASSENGERS GOING TO BHUBANESWAR, SAKHIGOPAL AND PURI.

1897. *Kumar Gupteshwar Prasad Singh (on behalf of Mr. B. N. Misra): (a) Will Government please state the object of the terminal tax on passengers going to (1) Bhubaneswar, (2) Sakhigopal and (3) Puri?

(b) In what year was it first imposed?

(c) What Railways are authorised to collect the same and from what year respectively?

(d) Will Government please state the total collection under this head till March, 1932, by each Railway?

(e) If the figures are not available, will Government please make inquiry and lay on the table a statement showing the collections by each Railway for (1) Puri, (2) Sakhigopal, and (3) Bhubaneswar, respectively?

Mr. P. E. Rau: (a), (b), (d) and (e). I would refer the Honourable Member to the reply given by me on the 9th November, 1932, to his question No. 1062, on the same subject.

(c) The tax is collected through the agency of the Bengal Nagpur Railway.

Mr. Lalchand Navalrai: May I know why this terminal tax is levied? Is it not something like a *Jizzia* tax?

Mr. P. R. Rau: I do not think so. The tax is collected for the purpose of improving the amenities of these places for the pilgrims visiting them.

Mr. Lalchand Navalrai: There is no other way of doing it?

Mr. P. R. Rau: The municipalities are not in a position to meet all the expenditure involved in making the places fit for the large numbers of pilgrims that visit these places every year.

Dr. Ziauddin Ahmad: Is it not a fact that this tax was levied at the request of the municipalities themselves?

Mr. P. R. Rau: At the request of the municipalities and the Local Government.

INDIAN MEDICAL DEPARTMENT ASSISTANT SURGEONS EMPLOYED ON THE NORTH WESTERN RAILWAY.

1398. ***Kumar Gupteshwar Prasad Singh** (on behalf of Mr B. N. Misra): Will Government please state:

- the total number of Indian Medical Department Assistant Surgeons employed on the North Western Railway;
- the total number of men of the Indian Medical Department allotted by the Railway Board for the North Western Railway; and
- if the number of men of the Indian Medical Department is in excess of the number allotted, what steps have been taken to reduce them?

Mr. P. R. Rau: Information is being collected and a reply will be laid on the table in due course.

SELECTION OF "Y" CADETS BY INTERVIEW AND RECORD BOARD OF THE ARMY ENTRANCE EXAMINATION.

1399. ***Mr. S. G. Jog:** (a) Will Government please state:

- the number of 'Y' cadets who were selected by the Interview and Record Board of the Army Entrance Examination held in June, 1931; and
 - their names and the regiments in which they were enlisted?
- (b) How many of such cadets were admitted to the Indian Military Academy during the term commencing on 1st October, 1932, and what are their names?
- (c) Is it a fact that they were offered special enlistment terms by the General Staff Branch, Army Headquarters, on the understanding that on completion of their necessary training as laid down by their Commanding Officers they will be given every facility for getting a nomination to the Indian Military Academy, provided they were recommended by their Commanding Officers?

(d) Is it a fact that the Army Interview and Record Board was composed of high military and civil officials who considered these boys fit for King's Commissions?

(e) Will Government please state the names of such 'Y' cadets recommended by their commanding officers and brigade commanders for getting a nomination to the Indian Military Academy during the October 1932 term?

(f) If no such 'Y' cadets were selected for a nomination to the Indian Military Academy for the October, 1932 term, will Government please state their reasons for doing so?

(g) If Government were not willing to nominate such 'Y' cadets to the I. M. A. for the first term and they had enough stuff in the Indian Army for Indian Military Academy, will Government please state what necessity arose for special enlistments through the Interview and Record Board as 'Y' Cadets?

(h) Is it also a fact that King's Commissions were not open to the non-commissioned officers of the Indian Army at the time when 'Y' cadets were selected through the agency of the Interview and Record Board?

Mr. G. E. F. Tottenham: (a) (i) Twenty.

(ii) A statement is laid on the table.

(b) None.

(c) Yes.

(d) The Board, which consisted of high military and civil officials, was of opinion that the boys were likely to make suitable officers after training.

(e) and (f). The three candidates whose names are indicated by an asterisk in the statement I have laid on the table were recommended to Army Headquarters by their Commanding Officers and Brigade Commanders. They were not selected for the October, 1932 term as more suitable and better qualified candidates were available.

(g) Because in June, 1931, Government were not certain that the ranks of the regular Indian Army would, to start with, be able to produce sufficient men of the type required.

(h) Non-commissioned officers of the Indian Army were not eligible in 1930 for the King's Commission, but the rule was altered in 1931.

Statement.

Mohammad Ayub Khan, 2nd Punjab Regt.

Goverdhan Lal, 2nd Punjab Regt.

Sultan Musazrah, 13th F. F. Rifles.

*Joginder Singh, 14th Punjab Regt.

Waheed Haider, 15th Punjab Regt.

Ram Narain Saxena, 7th Rajput Regt.

Abdul Hamid Khan, 1st Punjab Regt.

Mohammed Abdel Ali, 7th Cavalry.

*Dilip Chaudhuri, 7th Cavalry.

Shander Khan, 10th Hyderabad Regt.

Discharged, at own request.

*Recommended by Commanding Officers and Brigade Commanders for admission to the Indian Military Academy in October, 1932.

- Wazir Chand, 7th Rajput Regt.
- Swarup Singh, 4/9th Jat Regt.
- Jagat Singh, Probyn's Horse.
- *Jaswant Singh, 11th P. A. V. O. Cavalry.
- Sampuran Bachan Singh, 11th Sikh Regt.
- Hardip Singh Uberoi, 6th D. C. O. Lancers. Discharged, at own request.
- Satya Prakash, 19th K. G. O. Lancers.
- Gurkirpal Singh, Hodson's Horse.
- Sadiq Ullah Khan, 12th F. F. Regt.
- Maheshwar Nath Zutshi, who did not acknowledge the offer of a special enlistment.

Mr. S. G. Jog: Will the Honourable Member please explain the significance of the letter "Y" in "Y" cadets?

Mr. G. R. F. Tottenham: I do not know why "Y" has been used.

Mr. S. G. Jog: The Army Secretary is as ignorant as myself!

GRANT OF SPECIAL MESSING ALLOWANCE TO 'Y' CADETS.

1400 ***Mr. S. G. Jog:** (a) Are Government aware that parents of the so-called 'Y' cadets have spent enormous sums of money over their college education and that the latter's mode and habit of living is far superior to an ordinary Indian sepoy's with whom they are working side by side and given the same food without any special messing facilities?

(b) Are Government prepared to consider the question of granting some special messing allowance to such cadets till the period they are nominated to the Indian Military Academy?

Mr. G. R. F. Tottenham: (a) Considerable expenditure may have been incurred on the preliminary education of these cadets, but the standard of living of Indian troops is well known and their acceptance of the special enlistment terms must be taken as implying their readiness to adopt this standard.

(b) No, Sir.

AGE-LIMIT FOR 'Y' CADETS.

1401. ***Mr. S. G. Jog:** (a) Is it a fact that the age-limit for the Indian Army cadet has been fixed as 25 years?

(b) Is it also a fact that all the 'Y' cadets who were selected by the Interview and Record Board in June, 1931, were between the ages of 18 and 20?

Mr. G. R. F. Tottenham: (a) and (b). Yes.

*Recommended by Commanding Officers and Brigade Commanders for admission to the Indian Military Academy in October, 1932.

WAITING OF 'Y' CADETS FOR NOMINATION TO THE INDIAN MILITARY ACADEMY.

1402. ***Mr. S. G. Jog:** (a) Will Government please explain if it is their policy to nominate cadets to the Indian Military Academy when they are nearing 25 years of age?

(b) If so, is it a fact that every "Y" cadet mentioned above will have to wait for about five years before he can be nominated?

(c) Is it a fact that outsiders aged about 23 or 24 are enlisted as ordinary soldiers and, after completing some training, get nomination on the plea that they have no more chances on account of becoming over age? If so, does it not affect the nomination of regular 'Y' cadets?

(d) Is it a fact that one Pritham Singh who joined the Army as an ordinary soldier in November, 1931, was selected as a cadet for the Indian Military Academy during the October, 1932, term? Will Government state whether he was then over 25 years of age?

Mr. G. R. F. Tottenham: (a) and (b). The policy is to select those cadets who have had a full opportunity of demonstrating their powers of command and leadership, military knowledge and personality by actual experience in the ranks. Suitable cadets are not necessarily kept back until they are nearly 25 years of age, but, other things being equal, preference is naturally given to those who are approaching the age-limit.

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

(d) The answer to both portions is in the affirmative. The case of Pritham Singh was altogether exceptional. He was advised by the military authorities to enlist in the Indian Army with a view to obtaining a cadetship, before it was decided that no exceptions would be permitted to the rule regarding the age-limit of 25 years. He also gave up his civil employment in order to enlist. It was therefore decided that he must in common fairness be considered for a nomination, if recommended by the military authorities. His selection for a nomination was, however, due entirely to his own merits.

Mr. M. Maswood Ahmad: Will the Honourable Member be pleased to enquire from the department concerned why the letter "Y" is used for this purpose, and lay the answer on the table?

Mr. G. R. F. Tottenham: I think the letter was selected merely as a convenient symbol, and there is no other significance in it than that.

Mr. M. Maswood Ahmad: Will the Honourable Member be pleased to enquire and satisfy himself?

Mr. G. R. F. Tottenham: I am satisfied.

Mr. B. V. Jadhav: Are there any "W", "X" or "Z" cadets?
Mr. G. R. F. Tottenham: Not that I am aware of.

RECRUITMENT FOR THE INDIAN MILITARY ACADEMY.

1403. *Mr. S. G. Jog: (a) What are the rules for the recruitment for the Indian Military Academy?

(b) Is it a fact that no condition of passing the Indian Army Special Certificate Examination was laid down in the terms offered to 'Y' cadets specially enlisted?

(c) If so, will Government please state why the 'Y' cadets were made to appear in the Indian Army Special Certificate Examination?

(d) Are any exceptions made in respect of this procedure or in regard to the passing of the Indian Army Special Certificate Examination?

(e) Have any unqualified candidates been recruited for the Indian Military Academy for October, 1932, term without passing the Indian Army Special Certificate Examination?

(f) Is it a fact that the Indian Army Cadet Indar Singh was not recruited through the agency of Interview and Record Board of the Army Entrance Examination, and that he has not passed the Indian Army Special Certificate Examination? Is it not essential for every non-commissioned officer to pass that examination before getting a nomination to the Indian Military Academy?

Mr. G. R. F. Tottenham: (a) Copies of the Regulations governing admission to the Indian Military Academy are in the Library of the House.

(b) Yes, but it was made quite clear to them that they would have to reach a suitable standard.

(c) The possession of the Indian Army Special Certificate was made compulsory in order to secure a uniform standard of education and also to facilitate the task of selection.

(d), (e) and (f). There has only been one exception to the rule which is the case mentioned by the Honourable Member. Cadet Indar Singh was exempted from passing the Indian Army Special Certificate Examination, because he was qualified in every other respect and had actually on two occasions qualified in the written papers at the open competitive examination.

PREFERENCE IN THE SELECTION OF 'Y' CADETS TO THE INDIAN MILITARY ACADEMY.

1404. *Mr. S. G. Jog: Are Government prepared to consider the question of giving preference to those 'Y' cadets who were recommended by their respective commanding officers over other Indian Army cadets in selection for the next term of the Indian Military Academy?

Mr. G. R. F. Tottenham: No, Sir. Selection must be made strictly in accordance with the merits of each candidate.

INADEQUATE REPRESENTATION OF MUSLIMS IN THE CENTRAL STATIONERY OFFICE.

1405. *Mr. Muhammad Anwar-ul-Azim: (a) What is the total strength of the establishment of the Government of India, Central Stationery Office, including Stores, and how many of them are Muslims?

(b) What is the total number of Head Assistants and Assistants (Upper Division Clerks) there, and how many of them are Muslims?

(c) Is it a fact that there is not a single Muslim in the Store-Examiner's and Store-Keeper's Branches?

(d) If so, will Government state why Muslims were not recruited for vacancies there up till now?

(e) Is it because the non-Muslim Store-Keeper does not like Muslims to be appointed?

(f) What steps are Government taking in order to get a fair number of Muslim representation in this Office?

(g) Is it a fact that there are about 30 to 35 employees, Head Assistants, Assistants and Clerks, who have completed their full 25 years' service, and that there are many who have completed even 30 to 35 years' service?

(h) If so, have the authorities considered the question of retiring these men?

The Honourable Sir Frank Noyce: (a) 252, of whom 20 are Muslims.

(b) 28; none of them is a Muslim.

(c) Yes.

(d), (e) and (f). Recruitment to the Central Stationery Office generally is made according to the orders of Government regarding communal representation. In making appointments each branch of the Office is not treated as a separate unit. As appointments in the Stationery Store Section of the Office are made on the nomination of the Stationery Store Keeper who is responsible for losses which the persons appointed may cause, it is not possible to insist on communal representation in that Section.

(g) 28 men with over 25 years' service are employed in the Central Stationery Office; of these seven have more than 30 years' service.

(h) No; no occasion has arisen for compelling them to retire before they reach the age of superannuation.

POSTS SANCTIONED FOR THE OFFICE OF THE REGISTRAR OF JOINT STOCK COMPANIES, BENGAL, CALCUTTA.

1406. *Mr. Muhammad Anwar-ul-Azim: Will Government please state whether it is a fact that the Government of India have recently sanctioned five posts for the office of the Registrar of Joint Stock Companies, Bengal, Calcutta?

The Honourable Sir Joseph Bhore: Not recently. But four posts of temporary clerks on Rs. 40 per mensem each were sanctioned in April, 1931, and these are being continued. I may also mention that the recruitment for the Joint Stock Companies staff is purely within the province of the Local Government.

RECRUITMENT OF MUSLIMS IN THE SUPERIOR SERVICES UNDER THE VARIOUS PORT TRUSTS IN INDIA.

1407. *Mr. Muhammad Anwar-ul-Azim: (a) Will Government please state whether any, and, if so, how many Muslims are holding appointments in the superior services under the various Port Trusts in India, specially in Calcutta?

(b) Will Government please say whether the principle of Indianisation of the services has been accepted by the various Indian Port Trusts and, if so, how many Muslims have been appointed during the last two years in the superior services in accordance with this principle?

(c) Will Government please state whether any, and, if so, how many, applications, during this and the previous years, have been received by the Chairman, Port Commissioners, Calcutta, from Muslim candidates with British and other European qualifications for service in the Engineering and other technical departments under them?

(d) If the reply to part (c) be in the affirmative, will Government please state how their cases stand at present?

The Honourable Sir Joseph Bhore: The information asked for is being obtained and will, when received, be laid on the table.

LICENSED SHIPPING BROKERS IN THE PORT OF CALCUTTA.

1408. ***Mr. Muhammad Anwar-ul-Azim:** (a) How many shipping brokers with licences granted under section 24 (1) of the Indian Merchant Shipping Act are there in the Port of Calcutta and how many of them are Hindus and how many Muslims?

(b) Is it a fact that most of the seamen engaged on foreign-going vessels at the Port of Calcutta by these shipping brokers are Muslims? If so, will Government please say whether there is any Muslim shipping broker, and, if so, do Government propose to consider the desirability of granting a licence to suitable Muslims to enable them to engage or supply seamen on sea-going merchant ships in British India?

The Honourable Sir Joseph Bhore: (a) There are at present four licensed shipping brokers at Calcutta and all of them are Hindus.

(b) The reply to the first part of the question is in the affirmative. As regards the second part, the position is that under the revised system of recruitment now in force licensed shipping brokers are seldom, if ever, required to engage or supply seamen. Government have accordingly decided that fresh licences should not be granted.

APPOINTMENT OF MUSLIMS IN THE OFFICES UNDER THE COMMISSIONER OF INCOME-TAX, CALCUTTA.

1409. ***Mr. Muhammad Anwar-ul-Azim:** (a) What is the percentage of Muslim appointments in the offices under the Commissioner of Income-tax, Calcutta?

(b) Is it a fact that there is no Muslim clerk in the Head Office of the Income-tax Commissioner, Calcutta? If so, why? Are Government prepared to impress on the Commissioner of Income-tax the necessity for appointing Muslim clerks in the Head Office in Calcutta so as to bring their number to 33 per cent. of the total ministerial officers in the Head Office?

(c) Is it a fact that proportionately the clerks in the Head Office of the Income-tax Commissioner get more promotion as Examiners of Accounts, Assessors, etc., than the clerks in other offices subordinate to him? If so, are Government prepared to ask the Commissioner to appoint more Muslims in the Head Office?

The Honourable Sir George Schuster: (a) A statement is laid on the table.

(b) and (c): There is one Muslim clerk in the office of the Commissioner of Income-tax at present. The clerks in that office do get a higher proportion of promotions, as suggested. The Government are not prepared to issue instructions as to the percentage of the establishment in any particular office that should be drawn from any community.

Statement showing the percentage of Muslim appointments in the offices under the Commissioner of Income-tax, Calcutta.

	Percentage of Muslims.
I. T. Os. and A. I. T. Os.	25
Non-gazetted Executive Service—	
Examiners of Accounts	33½
Assessors	20
Bailiffs	16
Ministerial appointments	35·8

SHORT NOTICE QUESTIONS AND ANSWERS.

SEPARATION OF SIND FROM BOMBAY PRESIDENCY.

Seth Haji Abdoola Haroon: (a) Will Government be pleased to state whether the decision has been taken that Sind be not separated from the Bombay Presidency and constituted into a separate province?

(b) Will Government be pleased to state whether the principle of the separation of Sind from the Bombay Presidency has been agreed upon at the Round Table Conference?

(c) Will Government please state whether it is not a fact that according to the Brayne Report there is a deficit of about Rs. 80 lakhs in the case of Sind, whether it remains a part of Bombay or is separated from the Bombay Presidency?

(d) Is it not a fact that the additional cost, in the case of Sind being constituted into a separate province, is no more than Rs. 12 lakhs?

(e) Is it not a fact that representatives of the people of Sind have suggested ways and means of meeting the additional cost by voluntary taxation to that extent?

(f) Will Government be pleased to state whether the earliest opportunity will be taken by His Majesty's Government to announce the decision on the separation of Sind from the Bombay Presidency?

The Honourable Mr. H. G. Haig: (a) No such decision has been taken.

(b) The Sind Sub-Committee of the first Round Table Conference accepted the principle of the separation of Sind and directed that the financial issues be examined by an expert Committee. This investigation was made in 1931 by the Sind Enquiry Committee, and, at the second Round Table Conference His Majesty's Government accepted in principle the position endorsed at the first Round Table Conference that Sind should

be constituted a separate province if satisfactory means of financing it can be found. A conference of representatives of Sind, over which Mr. Brayne presided, was accordingly held during the summer to suggest means to overcome the financial difficulty.

(c) The Honourable Member has correctly stated the general conclusion to be drawn from the figures at which Mr. Brayne arrived in paragraph 33 of his report.

(d) Yes

(e) Yes

(f) The question of the method of dealing with the anticipated deficit in a separated Sind will be discussed by the Conference now being held in London when it is considering the subject of federal finance. His Majesty's Government hope to announce their final views on the question as soon as the discussions have been completed.

Mr. Lalchand Navalrai: May I know from the Government if at the First and Second Round Table Conferences, the minority community of Hindus in Sind were not represented?

The Honourable Mr. H. G. Haig: The Honourable Member is probably more closely acquainted with that than I am, but I am perfectly prepared to accept that statement if he assures me that that is the case.

Sir Muhammad Yakub: May I take it, Sir, that so far as separation of Sind is concerned, it is not inter-dependent on the settlement of the question of finance according to the announcement made by the Prime Minister in his decision on communal question?

The Honourable Mr. H. G. Haig: I do not think, Sir, the question was dealt with specifically in the Communal Award. The position, I think, is clearly stated in the answer I have just given. I think if the Honourable Member looks at that answer he will see, the position is quite clear.

Mr. Lalchand Navalrai: Will the Honourable Member be pleased to state if it was not decided at the Round Table Conference that Sind will not be separated if it does not stand on its own legs financially?

The Honourable Mr. H. G. Haig: I think the proposition was made not in a negative, but in a positive form—that Sind should be separated, if satisfactory means of financing it can be found.

Maulvi Muhammad Shafee Daoodi: Has the attention of the Government been drawn to Table II under the head "Provincial Forecast" contained in the Federal Finance Committee's Report, page 5, showing the future financial position of various Provincial Governments?

The Honourable Mr. H. G. Haig: I am not acquainted with that table myself.

Maulvi Muhammad Shafee Daoodi: Is it a fact that a deficit of 70 lakhs and another of 65 lakhs are shown as against Bihar and Orissa and Assam, respectively?

The Honourable Mr. H. G. Haig: I am quite prepared to take it from my Honourable friend.

Maulvi Muhammad Shafee Daoodi: The third question arises on the same point. Is the Honourable Member aware that the Province of Bihar and Orissa was allowed to start with no contribution in view of its especially bad financial position, which fact is observed by the Federal Finance Committee in their Report, paragraph 78, page 21?

The Honourable Mr. H. G. Haig: It may be so, Sir.

Mr. Gaya Prasad Singh: Is it not a fact that the province of Bihar and Orissa got no subvention from the Central Government?

The Honourable Mr. H. G. Haig: I do not quite see how that question arises on the answer I have given.

Mr. Lalchand Navalrai: Will the Honourable Member be pleased to state that the majority community as well as the minority community in the Brayne Committee showed all avenues of bringing round the deficit and were not able to do more than what Mr. Brayne found out?

The Honourable Mr. H. G. Haig: The position is as I have just explained. The question asked was whether it was a fact that according to the Brayne report there is a deficit of about 80 lakhs in the case of Sind, whether it remains a part of Bombay or whether it is separated, and the answer was that that was the conclusion. Then, in addition to that deficit which will remain in any case, there was the additional cost of separating Sind which was calculated to amount to 12 lakhs and it is a fact that the representatives of the people of Sind have suggested ways and means of meeting that additional cost by voluntary taxation.

Mr. Lalchand Navalrai: Does the Honourable Member know that there is a difference between the deficit found out by the Brayne Committee and that found by the Irwin Committee? The latter Committee estimated the deficit at one crore and 10 lakhs and also said that the deficit will not be reduced up to 1933. The Brayne Committee shows a little difference. Have the Government of India considered the difference between these two Committees?

The Honourable Mr. H. G. Haig: Mr. Brayne had before him the conclusions of the first Committee and gave his reasons for arriving at different conclusions.

Mr. Lalchand Navalrai: I am asking whether the Government of India have investigated into it and given its opinion on it?

The Honourable Mr. H. G. Haig: As far as I am aware, the Government of India are prepared to accept the estimates of Mr. Brayne's report.

Maulvi Muhammad Shafee Daoodi: In regard to meeting the deficit in the provinces, is the Honourable Member aware that the Federal Finance Committee observe this: "We have considered other proposals which might, to some extent, conceal the realities of the situation, but it seems better to state frankly that the only method of relieving deficit provinces is to spread the charge over the other provinces"?

The Honourable Mr. H. G. Haig: The Honourable Member brings out the point which I have already indicated in my answer—that this question of deficit provinces is a general one and it is going to be discussed by the Round Table Conference as part of the general problem of Federal Finance.

Mr. M. Maswood Ahmad: Are Government aware that at Allahabad the Hindus have agreed to the separation of Sind unconditionally about finance?

The Honourable Mr. H. G. Haig: I am not aware that the agreement was unconditional. I have not read the agreement very carefully, but it seemed to me to run to some length and I imagine there were a number of conditions attached.

Mr. M. Maswood Ahmad: I referred to conditions about financial deficit.

The Honourable Mr. H. G. Haig: I should be glad to hear from the Honourable Member what was said about finance.

Seth Haji Abdoola Haroon: Is the Honourable Member aware that last February, in the Bombay Council, the Honourable Sir G. Pradhan stated very clearly in his Budget speech that the deficit in the Bombay Budget at present, as Sind was with the Bombay Presidency, was about 80 lakhs, that if Sind was separated from Bombay, Bombay would be relieved of that 80 lakhs deficit from her Budget and that if Sind continued to remain with Bombay, then he suggested that the Government of India should make some different financial arrangement with the Bombay Government?

The Honourable Mr. H. G. Haig: No doubt, Sir, the position is broadly as indicated by the Honourable Member that if Sind remains with Bombay, 80 lakhs will have to be found somehow from the Bombay finances, which otherwise they will escape.

Dr. Ziauddin Ahmad: We are considering the possible sources of income in future. Was the question of the expansion of the port of Karachi considered, because this is really a very important source of future income?

The Honourable Mr. H. G. Haig: I have no information on that point, Sir.

Seth Haji Abdoola Haroon: Is the Honourable Member aware that in his report Mr. Brayne says that from 1944-45 Sind will become a self-supporting province on account of the revenue from the barrage scheme?

The Honourable Mr. H. G. Haig: It is certainly anticipated that when the barrage scheme has got into full working order, it will be very profitable and will relieve the finances of Sind.

Sir Muhammad Yakub: Have Government considered the question of amalgamating Baluchistan with Sind, and what will be the effect on the financial position of these two provinces when they are amalgamated?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order. That question does not arise on this issue.

Mr. Lalchand Navalrai: Is it not a fact that Lord Russell gave it as his opinion that Sind could be separated provided it stood on its own legs? Have the Government of India or the Government of His Majesty made any definite pronouncement contrary to that declaration?

The Honourable Mr. H. G. Haig: I have nothing to add to the very full statement I have already made on that point.

Dr. Ziauddin Ahmad: In adjusting the financial arrangements between Sind and the Government of India, will the Government consider as to who would be responsible for the extravagance of the construction of this barrage canal—the Government of India, or the Bombay Government?

The Honourable Mr. H. G. Haig: I am not aware what the Honourable Member refers to when he mentions "the extravagance of the construction of this barrage canal".

Maulvi Muhammad Shafee Daoodi: Are Government aware that Mr. Brayne, the Chairman of the Sind Conference, unnecessarily rejected the proposal of some of the members of the Sind Conference to levy a terminal tax in Sind, while the Federal Finance Committee Report in paragraph 86 says in the case of Assam:

"a possible further source of revenue should be a terminal tax the yield of which is estimated by the Provincial Government at about 20 lakhs,"

which would wipe off much of the deficit of Assam?

The Honourable Mr. H. G. Haig: I am not sure whether the Honourable Member is anxious that taxes to an unreasonable extent should be piled on the inhabitants of Sind. I have already stated that the members of the Committee, over which Mr. Brayne presided, have suggested ways and means of meeting the whole of the additional cost, and that being so, I do not know that there is any particular obligation on them to meet charges over and above that.

Mr. Lalchand Navalrai: Does the Honourable Member know that in the Brayne Committee the suggestion was made that the assessment of land revenue should be increased specially by one anna in the rupee when the majority community had declared several times that they cannot pay any more assessment and that such a suggestion has also been accepted by Mr. Brayne?

The Honourable Mr. H. G. Haig: I understand that the proposals made by Mr. Brayne were those accepted by his Committee.

Mr. Lalchand Navalrai: But the majority community consisted of seven men and there were three men from the Hindu community. Mr. Brayne accepted the opinion of those seven men—the majority community members. The Hindus never agreed to that.

The Honourable Mr. H. G. Haig: No doubt he accepted the opinion of the majority of the members of his Committee.

CONSTITUTION OF ORISSA AS A SEPARATE PROVINCE.

Mr. Bhuput Singh: (a) Will Government be pleased to state whether the decision that Orissa be not constituted a separate province has been taken?

(b) Is it a fact that the principle of a separate province for Orissa was agreed upon at the previous Round Table Conferences?

(c) Is it a fact that the Boundaries Commission has recommended that there are no financial difficulties in the constitution of Orissa as a separate province?

(d) Will the subject be discussed again at the Third Round Table Conference and ultimate decision taken therein? Has any representative from Orissa been invited to this Conference? If not, why not?

(e) Are Government aware that popular opinion in Orissa is very strong in favour of a separate province?

(f) Have Government considered the advisability of seeking the opinion of the Assembly by allotting a special day in this Session for discussion of the subject?

The Honourable Mr. H. G. Haig: (a) No such decision has been taken.

(b) The principle of the separation of Orissa was not in terms accepted at the last Round Table Conference. The exact position was stated in the opening sentences of the Reforms Office Resolution of the 18th September, 1931, No. F-12/VI/31, announcing the appointment of the Orissa Enquiry Committee in which it was stated that:

"the constitution of a separate province of Orissa was not made the subject of separate investigation by the Round Table Conference or any of its Sub-Committees. But the matter was not overlooked. Some discussion took place at a late stage in the Committee of the whole Conference in which, though the claims of the Oriyas were not expressly endorsed, no delegates spoke against them."

(c) No. The Honourable Member's attention is invited to Chapter II of the Orissa Committee's Report.

(d) It may be anticipated that the question will arise in connection with the discussions on Federal Finance at the Conference now being held in London. No delegate has been sent specifically to represent Orissa, but the Honourable Member is doubtless aware that one of the delegates is an Oriya.

(e) Government are aware of Oriya feeling on the subject.

(f) Government do not think it necessary to allot a special day for the discussion of the question.

Mr. B. N. Misra: What is the opinion of the Government of India now as to the point whether a separate province should be constituted or not?

The Honourable Mr. H. G. Haig: I am afraid I am not in a position to express the opinion of the Government of India.

Mr. B. N. Misra: What have the Government of India recommended in their Despatch to the Secretary of State?

The Honourable Mr. H. G. Haig: I have just said that I am not in a position to express the opinion of the Government of India.

Mr. Amar Nath Dutt: Sir, in view of the insistent demand from various provinces for separation, will Government see the wisdom of either reverting to the distribution of provinces as it was before the Partition of Bengal, or of having a distribution of the provinces according to a linguistic, ethnological and geographical basis?

The Honourable Mr. H. G. Haig: Sir, in these constitutional discussions, we have to face a very large number of problems. Among those problems are the questions of the constitution of two new provinces which have been discussed this morning: and I would suggest that we do not complicate matters further by embarking on a complete redistribution of the provinces of India.

Mr. M. Maswood Ahmad: Have the Government of India made their recommendations about the separation of Orissa to the Home Government?

The Honourable Mr. H. G. Haig: I do not think that the final views of the Government of India have yet gone to the Secretary of State.

Mr. Amar Nath Dutt: Will not the constitution of a Boundaries Commission put a stop to all these complications?

The Honourable Mr. H. G. Haig: It might also put a stop to the constitution.

Mr. S. O. Mitra: Is it the intention of the Government of India to create further deficit provinces, because of the fact that there are already several deficit provinces?

The Honourable Mr. H. G. Haig: No, Sir. These questions of the distribution of the financial resources of India are no doubt very difficult,—the financial resources as a whole being somewhat inadequate.

THE CRIMINAL LAW AMENDMENT BILL—contd.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Consideration of the Bill, clause by clause, to supplement the Criminal Law as reported by the Select Committee.

Mr. S. O. Mitra (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): Sir, I move;

"That clause 2 of the Bill be omitted."

Clause 2 runs thus:

"Whoever wilfully dissuades or attempts to dissuade the public or any person from entering the Military, Naval, Air or Police service of His Majesty shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both."

And then there are two Exceptions. My purpose in moving the deletion of this clause is that it is absolutely unnecessary and that it will be

[Mr. S. C. Mitra.]

useless and ineffective in operation. We wanted to know, from the time this Bill was announced, if there were real cases and if there was any urgent necessity for having a provision like this. We have failed to get any definite information so far as to in how many cases, Military, Naval, Air or Police service, men in His Majesty's service have actually been dissuaded or attempts have been made to dissuade them. I shall certainly be glad to revise my attitude if, later on, the Honourable the Home Member can put facts and figures before this House to justify the inclusion of such a clause. In that connection I shall be glad, now that the Ordinance embodying the substance of this clause has been in operation for more than 11 months, if the Honourable the Home Member will give us, province by province, the number of cases, under each of the categories, Military, Naval, Air or Police, in which men have been dissuaded or the cases where attempts have been made in this direction. I should also like to know the number of prosecutions, convictions and the sentences awarded, so that the House may be in a position to judge the matter for itself. I do not think that we are here called to legislate for all eventualities or imaginary cases that may arise in the future. One strong ground has been that the whole Bill is intended against Congress activities. So far as I know, there is no resolution of the Congress where it has been urged on the Congressmen to dissuade people from joining the Military, Naval, Air or Police services in recent times. I remember, in 1921, when the non-co-operation movement was first launched, there were provisions for five-fold boycott, and public servants were asked to boycott public services, not only the services mentioned in this clause, but all services. I attended the last Session of the Congress at Amritsar and I know it for a fact that only one item of boycott, namely, the boycott of the Legislature, was accepted and the other four boycotts, namely, the boycotts of Courts, schools and public services were not adopted. After that, there was only one more Session held of the Congress at Karachi in which no other Resolutions were passed except the one relating to the five-fold boycott. Since then, Government have, in their wisdom, forbidden the Congress to hold their Sessions and thus there was no chance for the Congress to revise their opinion. So, even from this narrow standpoint that the Congress has adopted or is likely to adopt any such boycott, I contend that there is no necessity for such a legislation. I do not know, Sir, with what object this clause has been put in the very forefront of the Bill. It is meant only to prejudice the outside public that Indians have become so obtuse that there are regular attempts to dissuade them from entering the Military, Naval, Air or Police service. If a case is made out that there is a regular or persistent attempt to dissuade people from joining these services, I shall be really the last person to oppose it. But, I think, in these days of unemployment, if the Honourable the Home Member is anxious to enlist a large number of public servants in any of these services, there will be no dearth of men. On all these grounds I think that this clause is superfluous and unnecessary. It will be used merely to oppress the people under cover of this legislation and it will be of no other use. With these few words I move for the deletion of this clause.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Amendment moved:

"That clause 2 of the Bill be omitted."

Mr. T. N. Ramakrishna Reddi (Madras ceded Districts and Chittoor: Non-Muhammadan Rural): Sir, I very rarely differ from the opinions expressed by my Honourable friend, Mr. Mitra, but in this respect I have great regret in differing from him. In this case, the Government have entered into the real Swadeshi spirit, because they want the whole Military, Naval, Air and Police services to be manned by Indians and that is exactly what our patriots have been fighting for all these years. We want the whole Military to be manned by Indians and also the Naval and Air forces and, that being the case, I do not see any reason why my learned friend should oppose such a salutary clause. Of course, the Government have introduced this clause unwittingly, because they really wanted to introduce a clause to punish boycott of any public service or any public servant, but unwittingly they have introduced this most salutary clause. I do not see any reason why we should oppose it and, on this ground, I oppose the amendment.

Mr. Amar Nath Dutt (Burdwan Division: Non-Muhammadan Rural): Sir, I am very sorry that my friend, Mr. Reddi, is under a misapprehension. He has seen in clause 2 certain words which do not occur there. In fact if those words were there, I would have also joined him in his praise for the Honourable the Home Member, namely, that by enacting this clause the Government intend that all Indians should be taken in the Military, Naval, Air and Police services. As for the Police service, we know that in the subordinate ranks, no foreigner is available and, therefore, Indians are taken. As for the Naval, Military and Air forces, my Honourable friend thinks that the enactment of this clause will compel the hands of the Government to enlist only Indians and not foreigners. If that be his idea, I submit, considering the policy pursued by Government so long, we are sure that his optimism is wholly unfounded. In fact, if there were words to that effect and if foreigners were excluded, I would have wholeheartedly supported my Honourable friend, Mr. Reddi. The clause, as it stands, runs:

"Whoever wilfully dissuades or attempts to dissuade the public or any person from entering the Military, Naval, Air or Police service of His Majesty shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both."

Now, so far as regards the Military, Naval or Air forces, I would have welcomed a provision like this:

"whoever wilfully dissuades Government from enlisting Indians in these services",

and certainly such a provision would have been most welcome to us. We know full well that Indians have no position in the Military, Naval and Air forces and that in the police they enjoy only a subordinate position. As the Honourable the Mover of the amendment has contended, up till now no occasion has arisen to enact a clause like this in a Bill to supplement the criminal law of the country, we want specific figures to be impressed with the real necessity for a clause like this. That being so, I am sorry that I have to disagree with my Honourable friend, Mr. Reddi, and support the amendment of my Honourable friend, Mr. Mitra.

***Mr. S. G. Jog** (Berar Representative): Sir, to start with, I should like to make it clear that in the long discussions that we had both at Simla as well as on the floor of this House here, when the Bill was under

*Speech not revised by the Honourable Member.

[Mr. S. G. Jog.]

consideration, I kept a sort of discreet golden silence for reasons which probably I leave it to you, Sir, to imagine. I should like to say that I had the good fortune or, I may call it, the misfortune of working on the Select Committee and, if I were to speak as to what happened in the Select Committee, I would have landed myself in troubles, either I would have been compelled to justify the action of my Honourable colleagues or I would have been compelled to justify my own action. I, for one, thought it better not to take any part in those discussions and not to say one word or other as to who was in the right and who was in the wrong. I wanted to drop a curtain over the whole affair which, according to some Honourable Members, proved to be the tragic part of the Select Committee proceedings.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member is speaking on the amendment to omit clause 2.

Mr. S. G. Jog: I was just now explaining, Sir, that I had no opportunity of giving expression to my feelings in the matter. I will now make some observations on the motion before the House. When clause 2 was under discussion in the Select Committee, we took a very long time, and straightaway we put the question to the Honourable Member in charge as to what was the necessity for this clause and whether they had any cases to prove that attempts were made to dissuade people from entering any of the services referred to in clause 2. The Honourable the Home Member was not in possession of any of the facts which will justify the legislation of a clause like this in the Bill. He took a long time to find out some material and, after all, he was not able to produce any material. However, when the matter was again being discussed, this matter was brought to the notice of the Honourable the Home Member and he promised to collect some material and place it before the House. Probably in his reply he may produce that material, but, up till now, at least, we are in the dark as to what that material is. We think that this is an imaginary grievance for which the Honourable the Home Member wants a provision to be made in the Bill. So far as we know, if anybody can be charged with dissuading people from entering the Military, Naval, Air and Police forces, it is the Government itself. I would charge the Government with putting obstacles and unnecessary restrictions in the way of Indian youth who are so anxious to join the Military, Naval and other services. If anybody is responsible for dissuading these young men, I think it is the Government. Under these circumstances, I submit that it is not the duty of this Legislature to provide against any imaginary evils, unless the Honourable the Home Member has got concrete cases of sufficient number to show the existence of such evils so that the House may vote for enacting a clause like this in the Bill. So long as the Honourable the Home Member is not in possession of the facts, any such piece of legislation, to my mind, is unnecessary. I should like to draw the attention of the House to the fact that in introducing this Bill the Government are practically trying to have something more than what was given in the Ordinance also. I should like to draw the attention of the House to clause 25 of Ordinance No. X of 1932, which says:

“Whoever dissuades or attempts to dissuade any person from entering the Military or Police service of His Majesty shall be punishable with imprisonment which may extend to one year, or with fine, or with both.”

I do not find the words “Naval and Air forces” here and, while introducing this Bill, the Government are trying to make an improvement on what was in their Ordinance and they want to include Naval and Air forces also. In a way the Government are going beyond the purpose of the Ordinance. They have added two Exceptions, but, in view of the fact that there is no necessity for any such provision, I think the whole clause should be deleted. In the Select Committee meetings, we tried our best and, to some extent, we succeeded in compelling Government to meet our views, but, at the same time, the Government were stiff, and we were not able to carry many of our points. I am not going to consider the question whether the principle of the Bill has been accepted by the House or not accepted by the House. I must say that the Bill, even after it has emerged from the Select Committee, has still many defects and is wanting in several respects and it is the duty of the House to get those defects corrected. I would, therefore, strongly advise the Government that, in view of their all-pervading nature and as this side of the House thinks that the Bill is still capable of many improvements, I hope the Government, seeing the weakness of this side, would not be stiff. As there are many more amendments which are likely to improve the provisions of the Bill, I hope the Government would help this side of the House in effecting the necessary improvements in the Bill on the lines suggested by us. With these words, I support the amendment moved by my Honourable friend, Mr. Mitra. I think this clause is quite unnecessary and ought to be deleted. It is a question as to how far the Government require powers and, having conceded some powers to Government to put down the civil disobedience movement, we have to see whether the other powers asked for are necessary, and whether they come within the purview of that ideal which they have got in view. I, for one, am constrained to think that this clause 2 is unnecessary and that Government should not burden this emergency legislation with such unnecessary provisions to combat an imaginary evil. I wholeheartedly support the amendment moved by my Honourable friend, Mr. Mitra.

Honv. Captain Rao Bahadur Chaudhri Lal Chand (Nominated Non-Official): Sir, belonging as I do to a district which supplies a very large number of recruits to the Army, which supplied 25,000 recruits during the war, and from which there are about 8,000 men at present actually serving in the Army, I think I should be failing in my duty if I were not to give an opinion on this clause. One of the charges levelled against the Congress in previous years used to be that it represented only the educated classes, and that as Congressmen were all drawn from the urban areas, it did not represent the rural classes. Its representative character was always questioned. This was, as a matter of fact, true. Even in 1917, when the Lucknow Pact was signed, it was a pact between the urban Hindus and the urban Muslims. There was no Sikh representative there, because they are a rural community.

In order to refute this charge, the Congress began to spread its activities into the rural areas, and I remember that when there was a Session at Delhi, probably in 1918, they had a separate camp for peasants and tenants who were also given free feed and free tickets. Similar was the case at Amritsar. In this way they secured rural delegates and established a contact between the villagers and the Congress. Ever since then, Congress propaganda has been going deep into the villages and I have been told

[Rao Bahadur Chaudhri Lal Chand.]

by many reliable persons present in village meetings including retired Military officers, that in villages the Congress preachers generally say: "You villagers, you Military people, you are responsible for the slavery of India, because you supply men on Rs. 13 a month to fight against your own country". That is the general trend of their arguments. I must, of course, admit that at present there is so much unemployment in the country and that the economic conditions are so bad, that there are more recruits to be had than we require partly as the Ordinances are at work. But the class of recruits that we used to get in olden days are difficult to secure now. Go to any cavalry officer or any cavalry regiment, and you will find that it is now difficult to get recruits from the old families who used to supply recruits to the Army, or, in other words, members of good families who used to join the Army for the sake of *Izzat* are keeping back.

Mr. B. V. Jadhav (Bombay Central Division: Non-Muhammadan Rural): May I know the reason why?

Hony. Captain Rao Bahadur Chaudhri Lal Chand: It is due to this propaganda and also partly due to the fact that the eyes of villagers have been opened and they find that the Civil services are more paying than the Military services, and, therefore, those who have got some education try to get into the Civil services rather than into the Military services.

Mr. B. V. Jadhav: So you mean to say that the Military service is not so attractive as it was before.

Hony. Captain Rao Bahadur Chaudhri Lal Chand: Military service at the top is attractive and should become much more attractive than before. If proof were needed, you can go and ask the Secretary of the Public Service Commission and he will tell you that, at the last selection for 12 vacancies, they had as many as 400 applications for the Indian Academy. The service at the bottom is not attractive.

Mr. B. V. Jadhav: That was for the King's Commission and not for the rank and file.

Hony. Captain Rao Bahadur Chaudhri Lal Chand: Yes, for the King's Commission.

That, Sir, is the chief ground on which they approach the Military classes. They always go and tell them that it is on account of the cheap recruits which the Military classes are supplying that the whole country is in bondage and slavery. This is the trend of the propaganda that is being carried on in the villages and it is very necessary that Government should not sit idle, but should get necessary powers to give effective punishment to those who resort to this propaganda among a population which is ignorant, illiterate and can be made to believe things which they ought not to believe. For instance, it was a common argument some time ago that *Swaraj* would come by 31st December of a certain year.

and villagers should also help materially in getting *Swaraj*. People used to come and ask if it were a fact that if they did not pay land revenue for a year or so, Government will come to a stop. Sir, this propaganda should not be allowed to continue among the masses, and I think the provision contained in clause 2 is very necessary. I, therefore, oppose this motion.

Mr. B. V. Jadhav: Sir, I have given notice of a similar amendment and I, therefore, whole-heartedly support the amendment moved by my friend, Mr. Mitra. But my reasons for the deletion of this clause are quite different. I do not think I shall yield to any one in my regard for the Army and I do recognise that for a well-settled Government a strong Army, Navy and Air force are absolutely necessary. And, therefore, it is the duty of every patriot to help Government in having a strong Army, Navy and Air force. But all these arms ought to be manned mostly by the nationals of the country. Up to this time the commissioned ranks of the Army and the Navy were not open to Indians at all; but, latterly, things have changed to a very small extent and the commissioned ranks have been opened to Indians by allowing them to hold a few commissions. The posts offered in the Army, for instance, are about 30 every term, out of which 15 are filled by direct recruitment and the rest by promotions in the ranks. In that way the Army has become more attractive and I do think that the fear expressed by my friend, Captain Lal Chand, will have no room, because boys of very good families, with an eye to a King's Commission, will join the ranks in larger numbers. But if there is a danger and if the propaganda that is carried on by the Congress and other unlawful bodies is to be stopped, it ought to be done by a separate Bill. But, as a matter of fact, nobody has yet shown that the propaganda that is carried on for dissuading young men from joining the Army is carried on by the Congress people or by the people who are preaching non-co-operation. The explanation given by Captain Lal Chand that people went into the villages and told the people not to recruit because it was a shame that Indians should accept wages and conquer the country and keep the country for a foreigner, that sort of preaching is not the Congress preaching at all. It may be the preaching of some unlawful persons or unlawful bodies, but the Congress is not at all responsible and it is not due to this non-co-operation movement. If such preaching is going on, it is by some other bodies

Hony. Captain Rao Bahadur Chaudhri Lal Chand: By Congress agents, I am sure: by agents who are in the pay of the Congress.

Mr. B. V. Jadhav: May I ask my Honourable friend whether such preaching has been started very lately or it is of very long standing?

Hony. Captain Rao Bahadur Chaudhri Lal Chand: Yes; it has been going on for some time.

Mr. B. V. Jadhav: So it is not due to the present non-co-operation movement. If it is going on for some time—and I do agree that it ought to be stopped—then this provision ought to form a part of the Army Act and not of a Bill which is to replace the Ordinances

Hon. Captain Rao Bahadur Chaudhri Lal Chand: If they continue like this, it should come into in due course.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): If the Honourable Member wishes to yield, he should resume his seat: otherwise he should go on.

Mr. B. V. Jadhav: No, Sir; I do not want to yield: I remained standing.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Then please go on.

Mr. B. V. Jadhav: What I submit is, if this is required for the maintenance and discipline of the Army, it ought to form part of the regular Army Act in order to remain there for all time to come. But it has been inserted in this Ordinance Bill. My objection here is that the clause is very vague and it will lead to many abuses and, therefore, it ought not to be in this Bill. If Government think that it is necessary to have such a provision in the interests of the maintenance and discipline of the Army, then they should bring an amendment to the Army Act and have it there, but not in this Bill, because here it will lead to oppression and it may lead also to misuse of the provisions. We do not trust the police and other officers who will be very eager perhaps to run down obnoxious people under some clause or another and this provision, that they preached against enlistment in the Army or Navy or the Air force is a very easy charge to bring forward and it will lead to many abuses. Government have given their consent that this Bill should remain in force only for three years. Such a provision for three years only will not do for the discipline of the Army and it ought, therefore, to be deleted from this Bill. Even when Government are ready to show certain instances, wherein some recruits have been dissuaded from entering one or the other of these services, I think that this provision in the Bill is not proper. Its right place is in the Army Act.

Sardar Sant Singh (West Punjab: Sikh): Sir, I stand to support the amendment moved by my friend, Mr. S. C. Mitra. My reasons for supporting this amendment are that I want to look at this clause from three points of view—the first, the strictly legal point of view, the second the point of view of a public worker, and third, the political point of view. Looking at it from the strictly legal point of view, I confess, I have not been able to follow the clause as it is worded. In the Select Committee Report I find that the word “wilfully” has been inserted in this clause probably to meet some objections of the Opposition. I tried to find out what would be the effect of this addition of the word “wilfully”. This addition of the word “wilfully”, in my opinion, would not provide any safeguard. If it means “deliberately”, then Exception 1 and Exception 2 become meaningless. If a man deliberately dissuades another or attempts to dissuade another from joining certain services, in that case he is brought within the purview of the clause in spite of these exceptions. But deliberate action is probably not represented by the word “wilfully”. The expressions commonly used in the Penal Code are two—with intention to cause a certain effect or with knowledge that a certain effect will in all likelihood be caused by a certain act of the culprit; but, in this clause, these expressions, intention and knowledge, have been avoided and the

expression “wilfully” is used instead. My own reading is that this word has been deliberately placed in the clause for the purpose of covering the criticism to which the clause would otherwise be open. In reality, this addition would not alter or limit the scope of this clause. It is too vague a term. The second expression which has been used loosely is “in good faith” in Exceptions 1 and 2. Exception 1 reads:

“This provision does not extend to comments on, or criticisms of, the policy of Government in connection with the Military, Naval, Air or Police service made in good faith and without any intention to dissuade from enlistment.”

The expression “good faith” has been defined in section 24 of the Indian Penal Code as meaning “with due care and caution”. If the words “with due care and caution” be substituted for the words “good faith” in this clause, it will read like this:

“This provision does not extend to comments, etc., made with due care and caution.”

This will reduce this Exception to nullity. If the comment has to be made, how can it be made with due care and caution? What is the caution which has to be observed? But if the expression, on the contrary, means “*bona fide*” or with good intention or honestly, in which sense it seems to have been used, the Exception does provide some safeguard. Similarly, the expression “good faith” has been used in Exception 2. Here too the penal provision does not extend where the advice is given in good faith and for the benefit of the person advised. If I were to tell one of my friends not to enlist his son in the Army, I shall have to tell him: “I am afraid of giving you my advice, because it is an offence to say so; but I advise you that if you send your son there, certain consequences will follow”. What will be the merit of that advice? Really this clause is so vaguely worded that any advice given, any suggestion made or any words dropped to any person with the idea of dissuading him from joining one of the services mentioned herein would bring a man within the scope of this penal provision. As far as I can understand the position, criminal law ought to be made very definite and very certain. The reason is obvious. The consequences of the criminal provisions are so very serious to the liberty of the person of the subject that the Legislature ought to be very careful in inserting a provision which does not convey the right idea to the person who reads that provision.

I submit, Sir, that this provision is simply uncalled for. My friends who have already spoken on this amendment have asked for facts which necessitate the enacting of a new offence of this kind, and I await an answer from the Honourable the Home Member on this point. But what I wish to emphasise is that such a provision will be used as a handle by unscrupulous candidates for public service to bring into trouble those from whom they happen to differ on political views. Unfortunately, in this country, public servants—I have to come into contact with a large number of them,—always look for their promotion by trying to earn the goodwill of their immediate superiors. One method employed for winning the goodwill of their superiors is to find out ways and means by which they can bring public movements into disrepute. The provision under discussion will certainly provide them with a handle though it may be enacted with the best of motives and in absolute good faith. Supposing a Congressman wants to criticise the judgment of a Magistrate, which is public property, and unscrupulous public servant can bring a case against

[Sardar Sant Singh.]

this Congressman on the ground that he tried to dissuade such and such a person from entering one of the services mentioned. Under these circumstances, I do not think I will be justified in recording my vote in favour of a measure which may possibly provide a handle for mischief.

Then, again, Sir, this is quite an unnecessary provision. After all, how many public servants are there who are willing to give up their posts today for their political views? How many applications are received when a vacancy is advertised? (An Honourable Member: "Crores.") Numerous applications are received. Therefore, what would be the effect of dissuasion on that? This Bill is intended to crush the civil disobedience movement which is regarded in some quarters as a form of revolutionary movement. Civil disobedience movement has been explained by its advocates as a movement of non-violence, as a movement of virtue, as a movement directed to set right palpable wrongs by adopting a course which is moral and disobeying laws which involve no moral turpitude. We know that a large majority of the people who have so far been tried for offences connected with the civil disobedience movement have had no criminality or immorality about them. If the new offence aims at putting down the revolutionary movement, non-violent or violent, it is sure to defeat such an object. Those who want revolution, would, on the contrary, be eager to join such services to affect the morale of such services in order to achieve their nefarious object. They would try to get in rather than to remain out.

An Honourable Member: Their character is verified.

Sardar Sant Singh: If their character is verified, as my Honourable friend says, then there is no necessity for such a legislation at all. It will be giving a handle to those whom you want to suppress. I, therefore, submit that this whole clause is unnecessary and impolitic and as such it will defeat the whole object you have in view. With these words, I support the amendment.

Mr. B. Sitaramaraju (Ganjam *cum* Vizagapatam: Non-Muhammadian Rural): Sir, I rise to support this motion. It would appear from a perusal of the clause that the worst offenders under this clause are the Government themselves, because we find that some of the finest Regiments in Madras have been disbanded and it is understood that some more Regiments are now under contemplation of being disbanded. Therefore, it would appear that a clause like this could be applied to the Government themselves because it can be reasonably shown that the Government are dissuading the public from entering the Naval or Military forces. But, in view of the fact, that that would not be done by this Bill and in view also of the fact that the Government have admitted that they have not got many cases to produce and justify that such has been the action of the public, I am constrained to think that there need be no reasonable apprehension on the part of the Government to come forward with a provision like this. With these few words I support the amendment.

The Honourable Mr. H. G. Haig (Home Member): Sir, I venture to agree with my Honourable friend, Mr. Reddi, that this is a salutary provision. I cannot, however, go with him when he says that it has been

introduced by the Government unwittingly. It has, in fact, been inserted in the Bill with due deliberation, and indeed, it seems to me strange that any one should suppose that any Government would acquiesce in such activities directed against the recruitment of essential services for the protection of the country. Consequently the objection that has been taken by Honourable Members this morning really centres on the point that there are no such activities, that this is an imaginary case that we have invented for the purpose in some obscure way of oppressing the people of India. It was said that, in the Select Committee when I was asked to produce evidence showing that these activities had been in operation, I was unable to do so, and it is suggested that since then I have been engaged in collecting the information which was not at that time available to Government. Well, Sir, the position really is this, that when this Bill was under preparation, we received the strongest representation from the Army authorities as to the necessity of including this clause. They assured us that there had been in fact a number of instances in which Congress agents had interfered with recruiting and it is a matter which they considered very serious and it was necessary to deal with it. At the moment that I was asked in the Select Committee whether I had any material, I had not got that material with me, but I have now a Note which in fact had been prepared previously which gives in some detail the facts on which the Army authorities based their representation.

Now, it has been said by my friend, Mr. Mitra, that there is not on record any Congress Resolution recommending this course of action, and it is, therefore, suggested that the Congress cannot be in any way instigating such activities and that, in fact, such activities cannot exist. Well, Sir, I would ask the House to reflect that there are various activities of the Congress which are pursued without the injunction of a special Congress Resolution. We are all aware that at one time, not very long ago, there was an epidemic of burning letters in post boxes. We know that even now from time to time the foolish practice is pursued of stopping trains by pulling communication cords. These things have not the authority of Congress Resolutions. Nevertheless, they are undoubtedly carried out under instigation from the Congress bodies.

I now come to the facts which justify the insertion of this provision, and I have to go back to the first civil disobedience movement in 1930. From about May, 1930, reports were frequently received from the recruiting officers that Congress agents were using every means in their power to prevent recruits from joining the Army. In some districts they achieved a certain degree of success—I would mention, in particular, Delhi and Garhwal. Instances were quoted in which they had compelled recruits to withdraw after they had actually joined the recruiting parties. The Congress activities in this direction continued throughout 1931. In spite of vigorous counter propaganda organised by the Army itself, the Army authorities did not consider these activities negligible. In 1932, an Ordinance was introduced which penalised these activities, and the effect was immediately apparent. No instances have recently been reported in which Congress agents have attempted to dissuade recruits from joining the colours, and, as long as this provision is in existence, we may anticipate that this particular attack on the Government will not make any headway.

It has been suggested by various Honourable Members that there is an unlimited supply of recruits, and consequently we need not be alarmed if a few recruits are in fact dissuaded. But, Sir, no Government can allow a

[Mr. H. G. Haig.]

movement of this sort to continue unchecked without serious risk of these activities affecting their credit among the very classes from whom they desire to recruit, and, if such activities were allowed to continue unchecked for some period, it might have very serious effects on the general temper of those classes on which the Army depends for its recruits.

I think I have said enough to convince the House of the necessity of this clause. (Loud Cheers.)

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question which I have now to put is:

"That clause 2 of the Bill be omitted."

The motion was negatived.

Mr. S. C. Mitra: Sir, I move:

"That in clause 2 of the Bill, for the word 'wilfully' the word 'maliciously' be substituted."

I know that by the addition of the word "wilfully" the clause has been much improved, and also an Explanation has been inserted to improve the clause. But my purpose, in substituting the word "maliciously", is that the onus may be on the plaintiff to show the malicious intent of the offender. In the Exception, it is the accused who shall have to prove good faith, and it is against the general principle of penal law that the accused should have to prove the absence of malice. The clause is too wide. It affects not only actual dissuasion, but any attempt to do so also comes under the purview of the law. So I want to substitute the word "maliciously" in place of the word "wilfully" as accepted by the Select Committee. Sir, I move.

Mr. Goswami M. R. Puri (Central Provinces: Landholders): I rise to support the amendment moved by my Honourable friend, Mr. S. C. Mitra. I find "wilfully" is a generic term and if the word "maliciously" is substituted, the whole clause will be acceptable to many of us. With these words, I support the amendment moved by Mr. Mitra.

Diwan Bahadur Harbilas Sarda (Ajmer-Merwara: General): I rise also to support this amendment moved by my Honourable friend, Mr. S. C. Mitra. When I spoke during the Simla Session on this Bill, speaking on clause 2, I pointed out that this clause had been framed on too wide a basis and I pointed out that if the wife of a man tried to dissuade her husband from joining the Military service, lest if he went to field service and was killed, she would be left a helpless widow, that persuasion exercised by a wife, though perfectly legitimate and lawful, would be made a punishable offence by this clause. No reply was given to me, but apparently the Select Committee saw the force of my argument and have made a slight change. They have now added the words:

"This provision does not extend to the case in which advice is given in good faith for the benefit of the individual to whom it is given or for the benefit of any member of his family or of any of his dependents."

This is a great improvement on what was in the original Bill, but the amendment has been made on a narrow basis. Suppose a man wants to take up Military service. A near relation of his, who is not a member of his family, nor is he entirely dependent on that man, but who receives

great assistance from him in life, he may be a nephew or a brother's son, and if he, in good faith, without any malice or any intention to injure the Government, gives that advice, he will be liable to be prosecuted under this clause. There is nothing in the wording of this clause which would prevent Government from making this an offence. It may be perfectly true that it is not the intention of the Government to take up such cases. What I say is, if you put in the word "maliciously" instead of "wilfully", it will have to be proved that the man was actuated by malice, and that will save him. With that object, I support this amendment.

The Honourable Sir Brojendra Mitter (Law Member): I oppose the amendment. This amendment, in my submission, is entirely misconceived. The Honourable the Mover of the amendment, Mr. Mitra, has assigned the reason for his amendment as shifting the onus from the accused to the prosecution. That is the only ground which he has adduced in favour of his amendment. The clause, as it stands, does impose upon the prosecution the onus of wilful dissuasion. By substituting the word "maliciously" for "wilfully" the onus will be on the prosecution as it now is under the clause, on the prosecution, to prove wilfulness. The difference is that the prosecution will have to prove malice instead of wilfulness. Mr. Mitra did not say a word on that subject and what that difference means. It is necessary, in view of this amendment as well as in view of several amendments which are to follow, that the exact legal position should be cleared up. I am afraid, in the course of the debate on this Bill, political considerations have completely befogged the legal aspect and I propose, with your permission, to go into the matter in some detail. It is well known to lawyers that wrongs or offences do not always import a malicious intention or, in the language of my friend, Mr. Sant Singh, the idea of criminality or immorality. It is well known that offences have been classified in the system of jurisprudence with which we are familiar under three heads. The first head of offences is intentional wrongs. The second head of offences is wrongs of negligence without any immorality or criminality, and the third, wrongs of absolute liability. This clause deals with wrongs of absolute liability. In the interest of the State or in the interest of public health or public morality, it is necessary that certain things should be prohibited. The mere disregard of that prohibition is a wrong. It is a wrong of absolute liability. All that need be shown is that in the interest of the State certain things cannot be done. If a man does it with the best intention in the world, he commits a wrong. With regard to enlistment, it is obvious to everybody that in the interest of the State enlistment should not be discouraged in any way. It is necessary for the safety of the State that enlistment should be free and unhampered and, therefore, it is necessary to lay down a law prohibiting discouragement of enlistment. Now, any disregard of that prohibition would be an offence. In support of what I have said I will only draw the attention of the House not to the *ipse dixit* of political lawyers, but of a jurist. I am quoting from an elementary book on jurisprudence by Sir John Salmond. In his book on Jurisprudence, at page 391, it is stated:

"It follows that in support of the requirement of *mens rea* wrongs are of three kinds, first, intentional or wilful wrongs in which the *mens rea* amounts to intention, purpose or design. Second, wrongs of negligence in which the *mens rea* assumes the less serious form of mere carelessness as opposed to wrongful intent and, thirdly, wrongs of absolute liability in which the *mens rea* is not required, neither wrongful intent nor culpable negligence being recognised as a necessary condition of responsibility."

[Sir Brojendra Mitter.]

Sir, the amendment seeks to take this particular wrong of dissuasion from enlistment from the third category into the first category. Mr. Mitra did not say so in so many words, but that is the effect. Once we introduce the element of malice, then it becomes an intentional wrong and not a wrong of absolute liability. I shall presently show to what absurdity that will lead us. But it is necessary before I show that to explain the meaning of the word "malice" in law. Sir, the popular meaning of the word "malice" is not its legal meaning. In law, it has got a definite meaning. "Maliciously" has been defined as "an intention to do an act which is wrongful to the detriment of another".

Mr. Amar Nath Dutt: What is the name of the author? What book is that?

The Honourable Sir Brojendra Mitter: I will give it to you in a minute. I am not saying anything without authority.

Mr. Amar Nath Dutt: Beginning from Sir John Simon.

The Honourable Sir Brojendra Mitter: It is from Stroud's "Judicial Dictionary". I hope my Honourable friend has heard the name of that book.

Mr. Amar Nath Dutt: I have got a copy of that book in my hand.

The Honourable Sir Brojendra Mitter: I am very glad. Sir, the word "maliciously" is defined like this. "It connotes an intent to do a wrongful act.—'Maliciously' in legal sense means and implies an intention to do an act which is wrongful to the detriment of another." There are two elements in the word "maliciously"—the first element is the element of intention and the second element is that the intention is wrongful to the detriment of another. Now, if the word "maliciously" were used in this clause, how would the clause read? It would read like this:

"Whoever intentionally dissuades any person from enlistment to the detriment of the State."

Now, if "detriment to the State" is implicit in the dissuasion, then this clause would be meaningless. "Whoever intentionally dissuades another from enlistment to the detriment of the State." The "detriment to the State" is there in the dissuasion itself! Therefore it would be senseless to repeat it. Then, my friend, Mr. Mitra, wants to throw the onus on the prosecution. Onus of proving what? Onus of proving not only intention, but that there is detriment to the State. If one person is dissuaded, it may be said there are ten other recruits available. Therefore there has not been any detriment to the State. It is not the actual result, but it is the tendency which is material. If one person is dissuaded from enlistment, there is really no detriment to the State, because there are hundreds of other recruits available; but if this is repeated in a hundred cases, it is then and then only that the detriment becomes manifest. Therefore, in a case like this, detriment to the State cannot be proved in an individual case. When my friend, Mr. Mitra, said he wanted to throw the onus on to the prosecution, it was an insidious attempt to defeat the whole clause, because detriment to the State can never be

proved in an individual case. Sir, there is a further objection to the use of the word "malice" in this clause. As I have shown, it will read nonsense if you introduce the word "maliciously" there. I have shown that by paraphrasing. In support of that, I desire to draw the attention of the House to another passage in Stroud's book. Stroud says this:

"The word 'malice' seldom has any meaning except a misleading one. It refers not to intention, but to motive and, in almost all legal inquiries, intention as distinct from motive is the important matter. Another objection to it is that its popular meaning is not pure ill-will, but ill-will which it is immoral to feel."

Sir, it is for this reason that the word "maliciously" is seldom used by draftsmen now-a-days. It is to be found in many old books; I do not dispute that; but when these old Acts came before the Courts and the Courts had to interpret those Acts, they found that the word "malice" or "maliciously" was very misleading. So, Sir, my objections to this amendment are, firstly, that it would make a wrong of absolute liability into an intentional wrong, whereas the wrong with which we are dealing—dissuasion from enlistment—ought to be, in the interests of the State, an absolute wrong. My second objection is that the word "maliciously" in this clause would make nonsense of the clause. And my third objection is that by throwing the onus of proving malice on the prosecution, you will be defeating the whole object of the clause. My fourth objection is that the word "maliciously" is a misleading word. When we are enacting a new law, we ought to make it plain, clear and intelligible and not open to any ambiguity. Sir, there is one more word I need say and that is this. My Honourable friend, Sardar Sant Singh, objected to the word "wilful". He said it was too vague, it was meaningless, and all that. The answer was supplied by Mr. Mitra when Mr. Mitra started his speech by saying that the addition of the word "wilfully" had greatly improved this clause. Sir, I oppose this amendment.

Mr. Amar Nath Dutt: Sir, I have heard with great attention the learned arguments of the *ex-Advocate-General* of Bengal, but I regret very much that I am not convinced either by the reasons set forth by him or by the enunciation of legal principles with which he wanted to convince this House.

The Honourable Sir Brojendra Mitter: If you will permit me, Sir, I omitted to mention one thing and it is this—that the only other analogous section in the Indian Penal Code that I have been able to discover is the section dealing with abetment of desertion. Of course enlistment comes before a man is actually in the Army; desertion comes in the next stage. I want to draw the attention of the House to the analogous section of abetment of desertion. That is, Sir, section 135 of the Indian Penal Code. It runs thus:

"Whoever abets the desertion of any officer, soldier, sailor or airman in the Army Navy or Air force of the Queen shall be punished with imprisonment of either description", and so on.

So, again, it is mere abetment of desertion without intention, without malice and without any other motive. Thus in the Indian Penal Code itself, in the analogous section it has been made an offence of absolute liability and not an intentional wrong.

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Mr. Amar Nath Dutt: Sir, I expected a far better exposition of the law of malice from an ex-Advocate-General who is now the Chief Law Officer of the Crown instead of depending upon this old Lexicon. It may be that people who have not the same status of an Advocate as my Honourable friend, the Law Member, in spite of the attempts which I have often made here and in spite of the strongest opposition of my Honourable friend, the Honourable the Law Member, to the distinction which he wants to perpetuate between an English Counsel and an Advocate enrolled in India and which will remain so long as my Honourable friend adorns the high office, may not see eye to eye with him. In fact, at one time during his temporary absence I wanted to have that Bill passed, but I found that his worthy lieutenant, Sir Lancelot Graham, prevailed upon the then Law Member to have it postponed in compliance to the desire of the permanent incumbent. Sir, I do admit that I was not a brilliant law student. I neither had a first class in my law examination nor I happen to be a member of an English Bar. But, whatever may be my knowledge of law, I can assure my Honourable friend over there that I knew the name of that book and the name of the author of that book before he was pleased to enlighten us on the subject. Now, Sir, from that book I shall quote to him the meaning of the word "malicious". It says: Malice is "A wrongful act done intentionally without just cause or excuse." I will lay special stress upon the words "without just cause or excuse". From a perusal of the note of my Honourable friends of the Select Committee, you will find, Sir, that they have observed as follows:

"In recasting the Bill, clause 13 has been combined with this clause. We have inserted the word "wilfully" and we have introduced additional safeguards."

Now, Sir, they congratulate themselves for having introduced the word "wilfully" and, further on, they proceed to say:

"We desire to protect, as far as possible, honest criticism made in good faith and have provided for this by our first Exception."

The first Exception runs thus:

"This provision does not extend to comments on, or criticisms of, the policy of Government in connection with the Military, Naval, Air or Police service made in good faith and without any intention to dissuade from enlistment."

I take it that it is the desire both of the Honourable the Home Member as well as of the Law Member that comments made in good faith and without any intention to dissuade from enlistment are permitted. That being so, let us see what my Honourable friend, Mr. W. G. Halg, does to introduce in the clause by his amendment. He wants to introduce the word "malicious", and what is the meaning of this word that is to be found in the very book to which my Honourable friend over there has referred. Of course, he read from the latter part and I shall read from the first part. It says:

"Malicious" means a wrongful act done intentionally without just cause or excuse."

I take it, Sir, that it was the intention of the Honourable the Home Member as well as of the Law Member that only such acts as dissuasion or persuasion done intentionally and without just cause will come under this clause and they have provided for a just cause in the Exception for which they congratulate themselves. That being so, I fail to find any

good reason for which the Honourable the Law Member could object to the substitution of the word "maliciously" for the word "wilfully". Now, Sir, the word "wilfully", we may take it, has a significance which is understood in ordinary parlance. There is not much difference in its significance in law. Then, Sir, I congratulate the Law Member for the very illuminating analysis from a book of a great jurist whose name will be remembered—I do not know whether it will be remembered with gratitude by any section of the community—in this country so long as the connection of this country lasts with England for the Commission over which he presided. Sir, we knew that Sir John Simon was a great advocate and recently we have come to know that he is also a great jurist from my Honourable friend, the Law Member.

The Honourable Sir Brojendra Mitter: I did not say Sir John Simon: I said Sir John Salmond.

Mr. Amar Nath Dutt: I beg his pardon, but the Calcutta University prescribes certain text books on Jurisprudence and I think my Honourable friend over there had to pass the same examination in Law as I did in the Calcutta University. I think, during our student days, we never heard the name of that great jurist and I challenge my friend to say that when he was a law student he also knew that Sir John Salmond was the author of a text book on Jurisprudence. He might have come into prominence only recently.

The Honourable Sir Brojendra Mitter: I have quoted from the eighth edition of that book.

Mr. Amar Nath Dutt: I do not know when the first edition of the book was published, but I would ask my Honourable friend to answer whether he really heard the name of that jurist when he was a student of law?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): I should like to know what bearing that has on the motion under discussion. Let us discuss the Bill which is now before us.

Mr. Amar Nath Dutt: I am told by my Honourable friend over there that salmon is a kind of fish and, if that is so, let the Honourable the Law Member have it. My Honourable friend has also referred to an analogous section in the Indian Penal Code, section 135, which deals with abetment of desertion. If the provisions are there, I submit, what further necessity there is for introducing this clause in the Bill under discussion. He ought to have supported the previous amendment of my Honourable friend, Mr. Mitra, for the deletion of the whole clause. In fact, I am convinced that the law of the country, the Criminal Law as it stands, does not need any very elaborate addition at the present time in order to meet whatever situation there may be in the country, and this clause, if not deleted, at least should be recast by omitting the word "wilfully" and substituting therefor the word "maliciously".

The Honourable Mr. H. G. Halg: I do not think I have anything to add to the learned exposition of law given by my Honourable colleague, and I certainly should not venture to step into the arena of legal arguments, as between him and my Honourable friend, Mr. Amar Nath Dutt.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in clause 2 of the Bill, for the word 'wilfully' the word 'maliciously' be substituted."

The motion was negatived.

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

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

Mr. S. C. Mitra: Sir, I move:

"That in clause 2 of the Bill, for the word 'wilfully' the words 'without any reasonable cause' be substituted."

In moving this, I feel no diffidence though I know there are very few Members present on this side of the House as well as on the other side. I think it my duty to draw the attention of the House to all points where, I think, an improvement should be made in this very drastic Bill. This motion wants to say that when there are any reasonable grounds for a person, he should not come under the mischief of this clause. The Honourable the Law Member made it clear that no mischievous intention is necessary and when there is such a result of dissuasion there should be no escape from the provisions of this clause. I was thinking whether honest criticism, which may have the effect of dissuasion, should not be provided for as an Explanation. It may be that a public speaker, in addressing the general public, might say that it is derogatory for Indians to enlist in the Army so long as there is the racial discrimination of Indian officers being placed in charge of Indian Regiments alone and of European officers not being placed under them. The effect of some such speech may have resulted in dissuading some of the candidates from going in for higher Military service.

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions: Muhammadan Rural): Read the first Explanation which we have added in the Select Committee.

Mr. S. C. Mitra: I request my Honourable friend to read it more carefully instead of asking me to read it. Here it is said that even an intention to dissuade from enlistment will be punishable. My intention in making that speech may be to say that unless these derogatory conditions and racial discrimination that prevail in the Army are removed, Indians should not enter these services. Here it may have the effect of dissuading in an indirect way. But though it may have that effect, I want to put some such clause that if there is any reasonable cause for it, then he should not come under the provisions of these penal laws. So even after Government's unwillingness to accept the word "maliciously" for "wilfully", I think they may agree to substitute the words "without any reasonable cause" for the word "wilfully".

Sir, I move.

Mr. S. C. Sen (Bengal National Chamber of Commerce: Indian Commerce): Sir, I rise to support this motion of my friend, Mr. Mitra, which, I think, is a very reasonable one. Government have practically accepted the principle underlying this motion, namely, that mere dissuasion will not be sufficient to bring a person within the provisions of this clause. That is the reason why they have made two Exceptions. One is that if I am interested in any person and I dissuade him, that has been considered to come within the category of reasonableness. Mr. Mitra's amendment is that instead of the two illustrations, the word should be "reasonable" throughout. In this connection one may refer to the provisions of clause 7, where a similar provision has been made, where, in addition to the intention of dominating over the mind of any person, certain overt acts are given. In this case, no overt acts are necessary, because, as the Honourable the Law Member said, mere dissuasion should be considered an offence. His reference to section 135 does not help at all, as that is a more heinous offence, viz., I abet a man in deserting a service in which he has been working. "Abets", under the definition in the Penal Code, connotes, I think, also intention. Therefore, there should be an intention of causing that man to desert and, therefore, mere desertion has not been considered to be an offence. In this clause the Government go further. It says that mere dissuasion of a person or a section of persons who were likely to have been recruited for the Army or the Navy or for the Police must be considered to be an offence. But Mr. Mitra's proposition is that when there are reasonable grounds for dissuading a person, he should not be punished. I see no objection to this because, as I said before, the principle has already been accepted and embodied in the two Illustrations given under this clause. Sir, I support the motion of Mr. Mitra.

The Honourable Sir Brojendra Mitter: Sir, I oppose this amendment. The only ground on which Mr. Mitra has supported his amendment is that honest criticism in certain circumstances should not be made penal; and, by way of illustration, he gives the case of a public speaker who advocates dissuasion on the ground that racial discrimination exists in the Army, and he says, the effect may be dissuasion, but the motive is noble. Sir, here again is a confusion of thought. Criminal law takes no account of motive. It takes account of intention, and it is this confusion between motive and intention which underlies this amendment. If it is conceded that dissuasion from enlistment is an offence of absolute liability, then if you bring any exception of reasonable cause, you leave it at large. What is the reasonable cause? We have provided for two reasonable causes: that is to say, when a person, in the interests of the prospective recruit, dissuades him—that we consider to be a reasonable cause and we have provided for it in Exception 2. The other Exception is this: as regards racial discrimination or other matters of policy, if there be criticism, it is covered by Exception 1. Besides these two causes, what other reasonable cause there can be has not been indicated by either of the two speakers. So there is really no ground in support of the amendment. Sir, I oppose.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in clause 2 of the Bill, for the word 'wilfully' the words 'without any reasonable cause' be substituted."

The motion was negatived.

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): Sir, my amendment is this. I move:

"That in clause 2 of the Bill, for the words 'dissuades or attempts to dissuade' the words 'or designedly deters or attempts to deter' be substituted."

My amendment is in two parts: one is that I want the word "designedly" to be introduced into this clause, and the second is that instead of the word "dissuade" I want that the word "deter" be substituted. The provisions of this Bill are admittedly drastic; it is admitted by Government that for this emergent occasion they stand for a very drastic measure. But it is a duty cast upon those, who want that such a drastic measure should be accepted, to see that all the rigour or severity of the clause is softened and, with that view, I submit that these amendments are being introduced. It is, therefore, very necessary to introduce some such words as would go beyond the word "dissuade" alone, which may mean giving of advice alone to make up the offence. That would soften the rigour of the clause. Otherwise, remember, the Government are giving this measure into the hands of the police and a mere word used in casual conversation or giving a private opinion whether a particular person should enter into any service or not would be misconstrued, twisted and turned. I submit that in the first place I do not agree with the Honourable the Law Member who lays down false premises first and then says that no safeguard is necessary. His interpretation is that it is *per se* a detriment to the State if only a man is dissuaded from entering a service. I submit that is absolutely wrong. If you are only giving advice, it would not be to the detriment if it is not done with a certain purpose or is due to a plan or an intention. The Honourable the Law Member fought shy of the word "malicious" to be incorporated in the clause; he perhaps thought that it would be very much to be proved before a conviction is obtained. But then one thing having been recognised that this Bill is going to be put on the Statute-book for the purpose of combating civil disobedience and for no other purpose, if the word "wilful" only is used it will not reflect the required purpose. The purpose for dissuading one may not be for the purpose of civil disobedience and still the man will stand convicted. Therefore I am suggesting a word lighter than "malicious" and having a meaning which would cover the very object of this Bill, and that is the word "designedly". The accused should have a plan for dissuasion and he should be one of those persons who is a supporter of the civil disobedience movement whom the clause should apply. A man who only gives advice or casually mentions his opinion may be caught in the snare. Therefore to protect such men I want that the burden of proof should not fall on them to prove that they did the act in good faith. This clause, as it is now worded, puts the burden upon the accused and turns the tables against him for mere advice. It is being urged that provisos have been added to the clause which would enable the accused to show that he had given that advice in good faith. I submit that that will be against the fundamental principles of the law of evidence. When a prosecution is launched, it is not that the prosecutor has simply to prove that the accused gave the advice: it must be proved that he did not stop at giving the advice, but that he did do some overt act to dissuade the will of the person so advised. The mere giving of advice may be taken by the police officer to constitute the offence in order to shove a man into a Court where he has to prove that he did not commit a crime: the burden

will be upon him to prove his *bona fides* and good faith. I, therefore, submit that the Treasury Benches, specially the Honourable the Law Member, upon whom there rests a great responsibility in this direction, should not merely ask for a blank cheque to be put in their hands and they should not reject reasonable amendments like these. We know their numerical strength: with the help of non-official Nominated Members, the officials and some other Members who are favourites of the Government, the Government can get this Bill passed in this manner; but it is a serious duty imposed upon the Government to see that they should not insist upon seeing this Bill passed even without a comma being changed. Therefore they should ponder and consider which amendment should be accepted and which should not be accepted. Government are actually changing the burden of proof and that will be against all principles of law. Further, I submit that the word "dissuade" is very flexible and liable to be misused. Therefore there ought to be some safeguard and, for that safeguard, the Law Member should accept an amendment which tallies with some of the provisions which they have themselves used. I will explain why I use the word "deter". Now, deter is not mere advice. "Deter" would mean prevent. It will be not by a mere request, but by either observing a Dharna before him or by certain overt acts. Therefore, merely making a request or giving advice should not be treated as an offence. We find the same intention is expressed in clause 7. What does this clause 7 say? Clause 7 says this:

"Whoever with intent to cause any person to abstain from doing or to do any act which such person has a right to do, or to abstain from doing, obstructs or uses violence to," etc.

So there is the domination of one's will here, and there is an overt act. Why should such terms come under picketing only and not in this clause, I cannot possibly understand. Therefore, the word "deter" would include something more than mere advice. I would, therefore, submit that both parts of my amendments are very modest and should be accepted by the House.

Hon. Captain Rao Bahadur Chaudhri Lal Chand: I had no desire to take part in the discussion of this amendment, but certain remarks which have fallen from the Honourable Member who preceded me have compelled me to say a few words. Sir, it has been customary for the Opposition to get up at every opportunity and malign the poor Nominated Members. ("Hear, hear" from the Nationalist Benches.) It seems the Opposition are under a grave misapprehension. They must understand that the Nominated Members are as good a part of this Constitution as Elected Members. The present Constitution provides that there shall be so many Nominated Members in the Assembly, and therefore it is not by any favour of the Government or by connivance of the Opposition that the Nominated Members are sitting in their seats today. I may tell my Honourable friends opposite that the moment the present Constitution is changed, they will find most of the Nominated Members occupying the elected seats (*An Honourable Member:* "Question.") (Laughter), because, Sir, elected seats are not the monopoly of the Congress people. Now, what do we see here? Mr. Patel's successor is Mr. Anklesaria, whose sympathies with the Congress are too well-known to need special mention. This shows that the country is tired of them. Therefore, I would request my friends opposite that they

[Hony. Captain Rao Bahadur Chaudhri Lal Chand.]

should give up the practice of maligning each other. Everybody is here by right. Let the Constitution be changed and the Nominated Members will disappear at once.

Sir Muhammad Yakub: But most of them have vacated their seats.

An Honourable Member: But what is your opinion about the motion?

Hony. Captain Rao Bahadur Chaudhri Lal Chand: I need not say anything on the motion itself, because that has been very well discussed in the previous amendments. I oppose this amendment.

Sardar Sant Singh: Sir, I rise to support this amendment, though I find some difficulty to follow the wording of the amendment. The amendment says that in clause 2 of the Bill, for the words "dissuades or attempts to dissuade", the words "or designedly, deters or attempts to deter" be substituted. I have not been able to follow the significance of the word "or"; but I support the substance of the amendment as explained by the Honourable the Mover. My submission is that the clause, as it originally stood, has been explained by the Honourable the Law Member as denoting that the Government want that out of the three categories of crimes, namely, the intentional crime, crime due to negligence and the absolute liability for an act, it should fall in the third category, and, therefore, they have placed the expression "wilfully" there. I want to invite the attention of the Honourable the Law Member to the fact that originally when the Penal Code was drafted, the expression "wilfully" was used in section 89 of the Indian Penal Code, but, later on, that was dropped and the expression "voluntarily" was substituted in the Code. The expression "voluntarily" has been defined there. This is what it says:

"A person is said to cause an effect voluntarily when he causes it by means thereby he intended to cause . . ."

But in the proposed Bill if the expression "voluntarily" had been used, one could have understood the position, because it would convey the meaning of the Penal Code. But that expression is avoided and no definition of the new expression "wilfully" is given.

Coming to my Honourable friend's amendment, he wants to substitute the words "designedly, deters or attempts to deter" for the expression "dissuades or attempts to dissuade". The amendment is certainly clearer and more definite. The amended clause could be applied with certainty on a given set of facts before the Court. We all know that dissuasion covers a mere advice without ascribing any conduct to the accused. If I walk with a prospective public servant and tell him "do not join such and such service", I can be brought within the purview of this clause,—but by using the word "deter" the offence will be committed if certain overt act, some definite conduct of the accused is proved. So far the Criminal Law in this land takes note of acts or omissions, but it has not given itself to punishing the people on mere statement except in defamation cases or other like offences. Here you want to create a new offence, and that, too, at an age when numerous candidates are available for a vacancy. But the Honourable the Home Member says that there is some prestige and credit for the public service and he wants to keep

it intact. I can understand the anxiety of the Government to keep the prestige and credit of the people who are already in public service, but why there should be so much desire on the part of the Government to protect those who intend entering the public service; this provision, as already submitted, Sir, will provide a handle to those who want to get into the public service. What are the conditions today? When applications are made for an appointment in the public service, we find very little space is given to the personal qualifications of the applicant for the job, but the political services rendered by the applicant or his family are narrated *ad nauseam*. This attitude is encouraged by the authorities and the applicants take full advantage of it and cater to their desires.

3 P.M. We, who are practising in the original Courts, know that people come forward to give evidence for the police in order to obtain chits, and these chits are used as qualifications for securing appointments in the public services. Here is given another chance to that class of people. I do not know how matters go on in other parts of the country, but, in the Punjab, you will find almost every headman carrying a book with him under his arms. In that book they get written, "This man came to see me. He seems to be desirous of serving the Government loyally. I recommend him to the other officials." (*An Honourable Member:* "The condition of the Punjab is quite different.") Now you are creating another offence by which you will get more marks for these kinds of people. If you really want to avoid the danger which, in our opinion, is only imaginary, but which you think to be real, you should at any rate have the decency of ascribing some act to the culprit before you punish him. Here there is only a statement which is being made punishable. If such a thing becomes a law, I do not think the administration stands to gain very much. The administration will be condemned by the public, which has already been brought to so much contempt by the over-anxiety of the administration to arm itself with repressive powers. Therefore, my view is that this is a very modest amendment and the Honourable the Home Member should accept it. I support the amendment.

Mr. Amar Nath Dutt: In supporting this amendment I am glad that we have not got to go to any *law lexicon* to find out the meaning of a particular word which has one meaning for the lawyers and another meaning for the layman. Here the amendment seeks to substitute for the word "wilfully", which has not been defined here nor has it been defined in any other Act in force at the present moment—be that as it may, there is no definition of the word "wilfully", and, therefore, my friend uses a word which any layman can understand, and it will also serve the purpose of the Government. I do not think that my Honourable friend, the Home Member, or my Honourable friend, the Law Member, will have any objection to its acceptance. I have no quarrel with the Nominated Members, and I sympathise with my Honourable friend, Captain Chaudhri Lal Chand, and I may say that we have more sympathy for Captain Lal Chand than with Mr. Lal Chand. Be that as it may, as a lawyer I expected Captain Lal Chand to support this amendment, but neither does he support nor oppose the same. On the whole, I think it will be acceptable to the Home Member and the Law Member, because there is no difficulty in having these words changed so as to make the meaning understandable to that body of officers who administer the Criminal Law.

[Mr. Amar Nath Dutt.]

in the mofussil Courts and hardly have any knowledge of law—I mean the Magistrates who have to administer the law, be they civilian Magistrates or Magistrates recruited in India. We know that they are too eager to put a meaning on certain words which would please the powers that be, rather than accept the ordinary meaning, nor do they care to understand the real import of the legal phraseology used. Over-zealous executive officers will not be able to put a meaning into the phraseology which the Legislature did not mean, and I hope the Home Member will be able to accept this amendment, knowing as he does the views of those who know the mentality of the executive officers in the mofussil.

The Honourable Sir Brojendra Mitter: I am very sorry I have to oppose this amendment, but I can assure my Honourable friend, Mr. Lalchand Navalrai, that my opposition to it is not based upon the assurance of a majority in the House. We have considered the wording of this Bill very carefully and the phraseology chosen was not haphazard nor designed to arm the executive with unnecessary powers. The amendment is that the word “wilfully” should be substituted by the word “designedly”.

Mr. Lalchand Navalrai: I have said “wilfully or designedly”. My idea is that “wilfully” means on purpose and “designedly” on an ulterior purpose. I want both these words. Both should remain.

The Honourable Sir Brojendra Mitter: One objection which has been taken to the word “wilfully” is that it is not defined in the Indian Penal Code. Therefore, the suggestion, I take it, is that there is ambiguity about it. Sir, the word “designedly” is not defined in the Penal Code either, so that the objection applies equally to the word “designedly”. Where an expression is not defined, you have to look to its ordinary dictionary meaning. That is the law. I consulted the Oxford Dictionary. “Design” means a “plan”, and “designedly” means “in pursuance of a plan”. Therefore, if you introduce the word “designedly” here, you have got to prove something in the nature of a conspiracy. Now, in the case of an absolute liability, if you are called upon to prove a conspiracy, you really defeat the purpose of that law. You may prove that a man goes about telling people not to enlist, but you may not be able to prove a conspiracy, that he is in league with somebody else to do that. We know from our own experience and from the facts which my Honourable colleague, the Home Member, placed before us this morning, that attempts were made during the last two years, before the Ordinance was promulgated, to dissuade people from enlisting. We want to stop that. If we are asked to prove a conspiracy, then the Legislature will deny to us the weapon which we want in order to fight this particular menace to the body politic.

Sardar Sant Singh: The object then is not to suppress the civil disobedience movement. If it were the object, then the plan or design would be that of the Congress.

The Honourable Sir Brojendra Mitter: That may be so, but my point is this. It will be difficult, almost impossible, to prove a conspiracy. We want a law which will be effective. If you make the law in such a way that it will not be effective, you might as well not enact it at all.

The other point which was taken by Mr. Lalchand Navalrai was that the clause, as it stands, might draw within its ambit a person who casually advises another not to enlist. I beg to differ from him. The word “wilfully” clearly shows that he must do it deliberately and not casually or accidentally. If a man does a thing deliberately, it is then and then only that he will come within the mischief of the clause. Then he says: “Oh, ‘wilfully’ is an expression which has been dropped in the Indian Penal Code and the word ‘voluntarily’ has been substituted in some section or other”. I may refer my friend to at least two sections in the Indian Penal Code in which the word “wilfully” still stands. They are sections 405 and 477-A. Why should the word “wilfully” be substituted by the word “designedly”? All we are providing for is that if a man goes about deliberately dissuading people not to enlist, then he commits an offence of absolute liability. If you bring in either a plan or design or intention, then, in the language which I used this morning, you would be transferring the offence to the first category of intentional offences. That we are not prepared to do because, in our view, this is an offence which carries with it the germ of mischief. When a person is dissuaded from enlistment, that is lending his support towards the defence of the country, the mischief is there. We want to keep that offence under the category of absolute liability and we oppose any attempt to transfer it to the category of intentional offences. Then take the word “deter”. It has been suggested that “deter” is a better word than “dissuade”. Why is it a better word? Dissuade means “advice against”. That is the dictionary meaning. “Deter” means discourage or hinder. If you accept the word “deter”, it brings in not merely advice, but may bring in physical hindrance. You are unnecessarily introducing an ambiguity into the clause which is not there now and, therefore, my submission is that the word “dissuade” which is well known, should stand. Why change that and introduce a word which may bring in an element of ambiguity. Sir, I oppose this amendment.

Mr. S. C. Mitra: I think the amendment of my Honourable friend, Mr. Lalchand Navalrai, is an improvement on the one I myself suggested. To a plain and simple man the difference between dissuading and deterring is simply this. In dissuading the speaker may succeed in inducing the other man to agree with his views, while deterring means that by some overt act or by any other way he may stand in the way of the man enlisting. So there is a clear meaning why the Mover of the amendment wanted to substitute these words. I support the amendment.

Mr. D. R. Puri (West Punjab: Non-Muhammadan): Sir, at this stage to speak on any amendment is practically flogging a dead horse. At the same time the elucidation of the law which has been made by the Honourable the Law Member prompts me to say just a few words as to the purely legal aspect of the question that he has propounded. It has been for the first time explained to us that the present offence is on par with a class of offences which are *per se* so pernicious that regardless of intention or knowledge or will or design, the act is *per se* of such a nature that in the interests of the State it should not be qualified or its effectiveness should not be encroached upon by any qualifying words of the nature of knowledge or intention or will or design. In other words, we have been seriously told that this offence is on par with offences of the nature of

[Mr. B. R. Puri.]
 section 124A or section 121, namely, acts which by themselves are of such a heinous character, as for example, to wage war against the King, where no question of intention comes in. It is an offence which falls very rightly and legitimately in the category of offences which place an absolute liability on the subject. Whoever infringes that law cannot escape from the consequences of having broken that law on the ground that he had no such intention, design and that he did not do it deliberately. His intention would be absolutely immaterial. If that be the correct view, then might I ask the Honourable the Law Member how does he justify his two Exceptions which he has himself provided under this particular clause. The Law Member has stultified himself when, on the one hand, he says that we cannot afford to let the effectiveness of this clause to be impaired because, according to his lights, it is an offence of sufficient heinousness that an absolute liability must be imposed upon the person who commits that act. May I, in all seriousness, ask him, if he is serious in expounding that view, with what justification does he provide channels of escape which are the subject-matter of his exceptions which provide that in certain cases an act which would ordinarily be an offence would not be an offence? In other words, if a certain set of circumstances are made out by an accused person, what, in the absence of those circumstances, would be a bald offence, would be removed from the category of that offence on account of those circumstances having been established in favour of the accused. In other words he thereby admits that that is not an act which places an absolute liability upon the offender. Sir, the two positions to my mind are inconsistent. Therefore I would expect my Honourable friend to clear the position. Sir, when propounding this proposition that they are compelled not to permit any qualifying words being imported into this provision by way of channels of escape because that it would alter the character of the liability, because according to them they say that it is an absolute liability and, therefore, by allowing any words to be imported into the clause, its effectiveness, they say, would be impaired, the position of the Government does not become sound. They have admitted that their argument is not a genuine argument, inasmuch as they themselves have shown that this is an offence which could be brought within the liability.

Now we do not conceal the fact that the object of all these amendments is to mitigate the rigour of this otherwise most unreasonable provision. Since we have not succeeded in throwing out this particular clause of this Bill, we are making such effort, as we are able to, with a view to reducing the rigour of this otherwise pernicious provision and all these amendments are intended to secure that object. Now it has been all along the case of the Opposition that we wanted that some sort of provision might be made under which this particular offence might be brought on a par with all other known offences, namely, in the sense that it should be placed upon the prosecution to establish the offence. Sir, we have rendered ourselves hoarse in trying to convince the Government, but our efforts have so far proved futile. Now, our friends across the floor of this House assure us that as long as the effectiveness of this provision is not impaired, they would be willing to meet us as far as they can. That is their position. The object which we had in our mind was that either intent or some other word which would place upon the prosecution the burden of proving the offence might be introduced into the Bill. They say:

"We are not going to agree to any suggestion of that kind, because if you take this offence from the third category into category No. 1, it won't do". If this is their difficulty, might I ask, for whose benefit you have provided this word "wilfully"? I could very justifiably ask the Government: "Was it really as a toy that it was provided, because there were children clamouring for it, and that in order to quiet them down, the Government have made an addition of the word 'wilfully'—because on your own word you admit that by introducing this word the effectiveness of the clause has not in any way been affected?" If that view is correct, then whether the Government added the word "wilfully" or eliminated it would not make the least difference. It is as good or as bad as if it did not exist. If it is not going to benefit an accused person, then, merely, in order to be able to say that we have made some sort of alteration, the Government cannot justifiably take any credit for themselves. As a matter of fact we have been waiting with a great deal of anxiety to hear one word in support of this word "wilfully" having been introduced,—in what way it was going to benefit the accused. I was expecting that the Honourable the Law Member might throw some light. As it is, he has not chosen to go beyond this that even his Honourable friend, Mr. S. C. Mitra, thinks that the introduction of the word "wilfully" is an improvement. He has taken for his support the opinion of another Honourable friend. But, so far as his original view as to how far that is *per se* an improvement is concerned, he has failed to enlighten the House upon it, and I would even now ask him through you, Sir, if he will even now at this late stage oblige this part of the House by telling us in what way and to what extent an accused person stands to gain anything by the introduction of the word "wilfully" which did not exist in the original draft. What I would ask him is, what would the prosecution be required to prove now, in addition to what they were required to do when this word did not exist before? That is all.

The Honourable Mr. H. G. Haig: Sir, I have only a few words to say. The amendment is, as I understand it, confined to two points. It proposes, in the first place, to substitute for the word "dissuade" the word "deter". As regards that, it is, in the main, a drafting amendment. I have not understood in what way the word "dissuade" is unsuitable for the purpose that we have in mind, and I have not been able to understand in what way "deter" is regarded as something preferable. It is true that my Honourable friend, Mr. Mitra, if I understood him aright, suggested that it is a wider word and that we should be able by the use of the word "deter" even to secure convictions otherwise not possible. But, Sir, we are perfectly satisfied with the well-understood word which has been included in the Bill. On the other point regarding the word "designedly", that has been so skilfully argued by my Honourable friend, the Law Member, what we intend by this clause is to ensure that the action should be a deliberate action—"wilfully dissuade"—, but we cannot agree to have to prove that it is part of a design, or that it is carried out with a particular intention. Sir, I oppose the motion.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in clause 2 of the Bill, for the words 'dissuades or attempts to dissuade' the words 'or designedly, deters or attempts to deter' be substituted."

The motion was negatived.

Mr. S. C. Mitra: Sir, I move:

"That in clause 2 of the Bill, for the words 'one year' the words 'three months' be substituted."

Sir, it is admitted that this is an offence of new creation. It is further admitted by the Honourable the Leader of the House himself that there will be an absolute liability and no pleading of absence of deliberate intention will in any way help the accused. It is a fact that when challenged, the Honourable the Home Member had to admit that though there were a few cases about the Army, there was not a single case as regards the other services,—for example, the Naval, Air or Police services. It was our contention from the very beginning that if there had been any real danger, then a law of this kind was not unthinkable, but when, on mere fanciful and imaginary grounds, this new offence is being created, the severity of the sentence should be the least. All our attempts to mitigate the rigour of this unreasonable law having failed, we now appeal to Government that at least the penalty might be lessened. May it not be an instrument of tyranny and torture on the poor illiterate people, and may not the unscrupulous officers in the Police and other departments take advantage of this? So, I am suggesting that at least for the sentence of one year a smaller sentence of three months might be substituted. Sir, I move.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Amendment moved:

"That in clause 2 of the Bill, for the words 'one year' the words 'three months' be substituted."

Sardar Sant Singh: Sir, I rise to support this amendment and my reasons for support are that the country is passing through that stage where such an enactment of a penal character will be very much resented. This House has tried its level best to understand the position of the Honourable Members who are in charge of the administration of the country and to appreciate the difficulties and try to help them as much as they can. But it seems to me that they have not been able to convince us of the necessity of this Bill. Though it has not been possible for us to throw out the Bill bodily, yet we have tried to modify it as much as we could. Sir, the atmosphere in the country is surcharged with suspicion and distrust. If the executive continues to think that they can suppress this distrust and want of confidence in the administration by severe punishments and retributive methods, surely they are not likely to succeed as such methods have never succeeded in any other country. Apart from the political situation that will be created by such punishments as are provided in this Bill, I want to make my submissions purely from the jurist's point of view in the hope that my remarks may go to convince them of the futility of repressive measures of the kind now before the House.

It is well known that in the old days the theory was: Life for life, tooth for tooth, eye for eye, and limb for limb. This was the criterion how the punishments were meted out to the criminals, but, later on, by the spread of knowledge and enlightenment in the country and amongst the people, the punishment has more and more come to be regarded as a

preventive measure, as a reformatory measure rather than as a retributive measure. The crime has now come to be regarded as a sort of disease which should rather be cured than put down with a vindictive hand. In this particular case we find that the offence consists in only making statements which a responsible person should not have made; nothing more than that. In a moment of weakness, probably the accused has committed or, under an excitement caused by an outside person, he has been led away from the right path and has said certain things which he ought not to have said with or without intention. This is the only criminal act done by him. Now, Honourable Members on the Government Benches want to punish him for this offence with an imprisonment of one year. Probably my friends on the other side regard a year as consisting of a few days, but really it is of 365 days and, as a matter of fact to a criminal, who is in the lock-up, it is more than 365 days, though not in number but in the actual suffering that he is to undergo. Now, if a mere statement is to be visited with a maximum punishment of one year, it will be an act of the nature of vindictiveness on the part of the executive rather than to reform the criminal. In this connection, Sir, I would like to quote Sir John Salmond, the favourite author of the Honourable the Law Member. On page 128, he says:

"Kant, for example, expresses the opinion that punishment cannot rightly be inflicted for the sake of any benefit to be derived from it either by the criminal himself or by society, and that the sole and sufficient reason and justification of it lies in the fact that evil has been done by him who suffers it. Consistently with this view, he derives the measure of punishment not from any elaborate considerations as to the amount needed for the repression of crime, but from the simple principle of the *lex talionis*: 'Thine eye shall not pity; but life shall go for life, eye for eye, tooth for tooth, hand for hand, foot for foot'. No such principle, indeed, is capable of literal interpretation; but subject to metaphorical and symbolical applications it is in Kant's view the guiding rule of the ideal scheme of criminal justice."

Probably this has been the guiding principle of the Honourable Member who framed and provided this penal law for this country. But what has the jurist to say about it. He goes on:

"It is scarcely needful to observe that, from the utilitarian point of view hitherto taken up by us, such a conception of retributive punishment is totally inadmissible. Punishment is in itself an evil, and can be justified only as the means of attaining a greater good. Retribution is in itself not a remedy for the mischief of the offence, but an aggravation of it."

Now, those are the observations of a jurist who wrote the book not in an atmosphere of excitement, but in a cooler atmosphere where logic and reason and not vengeance prevailed. After all, what do you want to do? You are not protecting the persons who are actually in service, but you are trying to protect persons who are yet to join the Government service and who probably may not be accepted by the authority who is responsible for their selection. If such persons are open to such persuasion in spite of the economic depression in the country and in spite of the service motive, you should not send a man to jail for one year. That is too much. Therefore, I submit that you should not make the remedy worse than the disease itself. The Government want to suppress the civil disobedience movement and, in suppressing that movement, they should not create a spirit of greater resentment in the country. Greater resentment will react and recoil upon its authors. Therefore, I submit, that before disposing of this amendment, they should remember that after all this man has done a foolish act against which you want to provide.

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yourself. In my opinion, there should be no punishment excepting a warning or something of the sort. Section 562, Criminal Procedure Code, was recently modified and greater powers were given to the Magistrates with a view to reforming the criminal rather than to inflicting a vindictive punishment upon him. Therefore, I submit, with all the earnestness at my command, that this view of the crime, as it is proposed to be done in this clause, should not be taken.

Mr. Anant Nath Dutt: Like the baby in the Pears' soap picture he will not be happy unless he has had the whole of it and the Honourable the Home Member will not be happy unless he has the whole clause as drafted by his draftsman, who, we are assured by the Honourable the Home Member, is a very clever draftsman, although I had some experience of him in another Select Committee. The Honourable the Home Member wants the whole clause as drafted. Now, the only point is with respect to the punishment that is to be inflicted on the man who offends against the clause. Unless the Honourable the Home Member wants to be vindictive, he would not like to give such a punishment to a man who advises people only not to join such dangerous services as the Military, Naval or Air services, for everybody knows these services are attended with danger. In the one case, it is the sea and, in the other case, it is the air, while, in the Military, it is hand-to-hand fighting and, in all these cases, one's life is always in danger. In the Police service, they know of no danger to the body, it is simply danger to one's soul, because when one enters the Police service, one has to sell oneself entirely and do everything at the dictates of the executive. I am told by an Honourable friend who sits by me that I am dissuading people from entering the Military, Naval and Air forces and the Police service. Fortunately I am on the floor of this House, a few paces outside of it; when the law is enacted, I would be subject to incarceration under the clause.

Now, the question is whether the punishment should be for one year or for three months. About this, I can do no better than impress upon the occupants of the Treasury Benches in the words of Cardinal Newman as to what should be our guiding principle in legislating on these matters. We must remember, and we must not forget, that it is not by laws, far less by bayonets, that nations are governed. They will enable either a man or a nation to conquer the world, but not to rule it. Only sympathy, boundless sympathy, can conquer the hearts of people. I appeal through you, Sir, to the fortunate occupants of the Treasury Benches over there, I appeal to them in the name of humanity, in the name of civilisation and, in the name of all things sacred and dear, I appeal to them to be less rigorous and less vindictive and to have more sympathy for the Indian people who feel, rightly or wrongly, that they should have freedom of expression, and if in their desire to have the administration changed, and, in their desire to have the freedom of their own country—the land of their birth—if, in that, you cannot aid them, please do not come down upon them with such barbarous punishments as one year for simply asking a man not to enter the Military, Naval, Air or Police services. I appeal to them once more, with all the emphasis at my command, to be more humane towards the Indian people and to soften the rigours of this clause by lessening the punishment. (Applause.)

***Mr. N. R. Gunjal** (Bombay Central Division: Non-Muhammadian Rural): I support the amendment moved by my friend, Mr. Mitra. I support it, because I have given notice of a similar amendment.

I am of opinion that this amendment should not be opposed even by Government. It has been sufficiently proved by now that this is a drastic measure. It seems to me that the hands and feet of Government are now paralysed, and only the brain is working. The policy for the present seems to be to draft laws to suit the idea that may happen to flash through the brain and to administer the country accordingly. But this is a wrong policy.

Hon. Captain Rao Bahadur Ohaudhri Lal Chand: There seems to be some misunderstanding about the punishment part of this clause. The Honourable Member should know that the provision of one year is not compulsory. This is the maximum punishment and in most cases only three months will be given in the first instance. This may be followed by six months in the case of a second offence and one full year will be given when this offence is committed for a third time. So the fears of the Honourable Member are unfounded. If three months or six months were substituted, what punishment would you give for habitual offenders under this clause?

***Mr. N. R. Gunjal:** I have nothing to say about the support to be given to Government by the Nominated Official Members. But I would urge upon the Nominated non-Official Members not to give their support lest they should rue the day,—which is not unlikely,—when some of their near relations may fall victims to this clause. Government will then have no consideration for the support now given by them.

The Honourable Mr. H. G. Haig: Sir, the Honourable Members who have spoken appear to be labouring under some misunderstanding. They suggest that we want to punish everybody who is convicted of an offence under this clause with one year's imprisonment. They do not seem to have taken into account the fact that the term of imprisonment which is put down in this clause is the maximum term and will not apply to the cases for which they have invited the sympathy of this House, a foolish and thoughtless word, a young boy who speaks without thinking, people who are in fact covered by Exception 2 to this clause who are dissuading persons from entering these dangerous services, so that they may escape the dangers that otherwise would beset them. I submit, Sir, that a maximum sentence of one year for an offence which may be a very serious offence is in no way excessive, and there can be no reasonable accusation against Government of being vindictive. In the case of a regular Congress agent engaged on a regular campaign of dissuading persons from joining the Military forces of His Majesty, a sentence of one year would not be, in my judgment, at all excessive. I must, therefore, oppose the amendment.

Mr. President: (The Honourable Sir Ibrahim Rahimtoola): The question is: "That in clause 2 of the Bill, for the words 'one year' the words 'three months' be substituted."

The motion was negatived.

*The Honourable Member spoke in the vernacular.

Mr. B. V. Jadhav: Sir, I move:

"That in clause 2 of the Bill, for the words 'one year' the words 'six months' be substituted."

I need not make a long speech as all the arguments, that were placed by this side of the House for the amendment which has just been negatived, stand good in the case of this amendment also. It has one advantage that it is more moderate and I think Government will show their sympathy to this side of the House by accepting it.

Sardar Sant Singh: Sir, having failed in carrying the last amendment, I support this amendment. The Honourable the Home Member, in his reply to the reasons advanced by me, said that I was labouring under some misapprehension and did not realise that the sentence proposed in the clause was the maximum. I may assure him that I did realise that, and with a full responsibility I criticised the provision as brutal, vindictive and retributive and not reformatory or preventive. My friend has entirely forgotten that in the earlier course of this debate it was brought out by the Honourable the Law Member that he wanted this clause to create an absolute offence and no other, and in calling it an absolute offence he was careful to say that they wanted to punish a man without making any inquiry whether there was any conspiracy or a plan existing behind the person who dissuaded or attempted to dissuade any person from entering the public services mentioned therein. If the executive do not want to punish a man as part or member of a conspiracy, but they want to punish him as an individual without trying to establish his connection with any conspiracy or unlawful assembly, then my submission is that the maximum sentence provided for this offence is really a punishment which should not have been provided in this clause.

Government are perhaps interested in forgetting that the punishment is a double-edged weapon. It brutalises him who suffers imprisonment and brutalises him who gives that punishment. The tendency of the administration is to brutalise it. We want to check that tendency; we want to persuade Government, as much as we possibly can, that they should not encourage that brutalising process in the administration. They should listen to reason and to the prevailing atmosphere in the country. After all you have not been able to establish confidence among the people; you may be regarding yourself as doing justice to the people, but it is not the doing of justice that really matters. It is the confidence that you create that justice has been done to them, that matters a great deal. You should not consider that if on the Congress platform a speaker gets up and says that no person should enter the public services he should be punished for one year as he has committed a great offence. Of course it will be an offence, but do you think the public mind will regard it as an offence? The public will feel that no offence has been committed and you cannot have that confidence which the subject should give to the administrator. If you really want to introduce democratic institutions in the country and if you really want, as was said in several speeches on this Bill, to protect the future democracy which is to be established in India, that democracy will depend on the vote of the people and the confidence of the people in the administration. How is that confidence to be established? Surely not by providing brutal punishments for offences which are being newly created and which are not to be found in the penal Statutes of any civilised nation. Therefore, I say that it is not a maximum

punishment which is being provided; as a matter of fact, we find from reports in the press that maximum punishments are awarded by Magistrates in all political cases. We want to provide against it. Therefore, I will still say that this amendment at least should be accepted. These are offences which should not be visited by more than a warning from the Magistrates, not to speak of sending people to prison and associate with people who have committed foul offences. Therefore, I will support this amendment.

Mr. S. C. Mitra: Sir, while moving the earlier amendment about the period of imprisonment, I was fondly hoping that even if my amendment was not acceptable, it might be that this amendment of Mr. Jadhav might be acceptable to the Government. We should not forget in this connection the prison life that is ordained here for all persons. The question about classification was long discussed in this House: and Government said that they would not take into account the motive for the crime; but in the matter of jail classification, they would look to the standard of life to which the particular prisoner was accustomed. It is the experience of all the Members of this House that political prisoners are, as a rule, classed as C class prisoners and they are put in the same jail wards along with hardened criminals; and, as my friend, Sardar Sant Singh, said, jail life itself will make them even worse. It was with that intention that we appealed to Government that for this technical offence, which is a new one, created for the first time, Government should have some consideration; but if they are determined to have their pound of flesh, let them have it; we know we are not strong in votes; yet I think there is still time for Government to come forward and say that they accept such a very humble amendment.

The Honourable Mr. H. G. Haig: Sir, we have heard a denunciation of the accepted theory of punishment. I understand that my Honourable friend, Sardar Sant Singh, considers that all imprisonment brutalises and my Honourable friend, Mr. Mitra, appeals to us not to send people to prison, because of the conditions which are experienced in jail. That argument can be carried a long way. I do not know whether Sardar Sant Singh objects to the whole of our criminal system and would like to abolish altogether our penal laws and our jails. But if not, I think much of his argument is beside the point. The offence for which it is proposed to enact this punishment is not, as Mr. Mitra would suggest, a technical offence. It is a serious offence and I submit that the maximum punishment of one year's imprisonment is in no way excessive. Sir, I oppose the amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in clause 2 of the Bill, for the words 'one year' the words 'six months' be substituted."

The motion was negatived.

Mr. S. C. Mitra: Sir, I move:

"That in clause 2 of the Bill, after the words 'or with fine' the words 'not exceeding two hundred rupees' be inserted."

It has been said that there is a maximum sentence as regards imprisonment. What are the grounds for the Government here not fixing a maximum for the fine? I think Government will explain it. It is not a rare

[Mr. S. C. Mitra.]

occasion that, during these days of political crimes, there are vindictive sentences. We have heard of fines of Rs. 20,000 inflicted on people who are known both to the Government and to the people that there was nothing sordid in the motive of their crime. It may be that under the present law patriotism may be punishable; it may be that the encouragement of indigenous industries by persuading people may be punishable, but there should be some limit to those fines. If there is no limit, there are officers of Government who will think that a very large sum in these days of financial stringency will help the treasury, and apart from any consideration of the crime they may be disposed to impose very heavy fines. If there was any necessity for the sentence to be fixed and not left to individual discretion of the Judges, I think, Government will give good reasons why they have put no limit to the amount of fine. I move that a reasonable sum like two hundred rupees for a newly created offence may be considered by Government as acceptable. I move.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Amendment moved:

"That in clause 2 of the Bill, after the words 'or with fine' the words 'not exceeding two hundred rupees' be inserted."

Mr. Lalchand Navalrai: Sir, the offence is sought to be punished with imprisonment which may extend to one year or with fine or with both. When the offence is punishable with fine and tried by a first class Magistrate, he can fine up to the extent of one thousand rupees. I submit that we do understand on this side of the House that it is not always that the maximum punishment is inflicted by the Magistrates; but we know that under the Ordinances extreme punishment has been awarded. Therefore it is that we put these amendments in order to restrict the hands of the Magistrates who try these cases to inflict reasonable punishment. I submit, for a first offence of this nature in which no intention has to be proved and the burden of proof has been cast upon the accused to show *bond fides*, to punish him with one year's imprisonment and a fine up to one thousand rupees is inhuman and cruel. I would, therefore, submit that this amendment asking the limit to be put at two hundred rupees is a reasonable amendment and I support it.

Mr. S. G. Jog: Sir, I am surprised to find that the Government are at times consistent and at times inconsistent. If we go through the other provisions of this Bill, we find that in some places the amount of the fine has been fixed. I will draw attention to clause 4—boycott of public servants—I do not want to discuss the other provisions of the clause and I will limit my observations to the provision as regards punishment: it is said there "imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees". There is another clause also—clause 7—the long discussed molestation clause where also it is said "imprisonment which may extend to six months or with fine which may extend to five hundred rupees". There are also other provisions where fine has been fixed. The Government should now be aware that there is a sort of diffidence on this side of the House as to giving power to Magistrates—whether some fetters should not be put on their discretion—and since the Government have made provisions in

other clauses limiting the amount of fine, I should see no reason why such a salutary provision should not be made in this. The Magistrates, as we all know, are at times vindictive in these days, and they inflict the highest amount of fine on the accused, and it is only right, as has been suggested by previous speakers, that there should be imposed a restriction as to the amount of the fine to be imposed. I do not wish to subscribe to the idea that in these days of financial stringency they want to fill the coffers of the Government by money realised from these heavy fines—I do not want to charge the Government with that motive at all. But we have to depend upon the local Magistrates, and these local Magistrates are of different views and different temperaments who always do not take, when deciding cases, just views, and, therefore, it is very necessary that some restriction should be placed on the amount of the fine to be imposed, and the suggestion, that Rs. 200 as fine would be sufficient, ought to be accepted by the Government. It is a very reasonable suggestion and it should be accepted. Sir, I support this amendment.

Mr. Amar Nath Dutt: Sir, we were assured by the Honourable the Home Member that it is not necessary that the maximum punishment should always be inflicted upon a transgressor of this clause. He has said that the maximum punishment is only provided for those whose offence is in an aggravated form, but here there is something which ought not to escape his notice. I invite the attention of the Honourable the Home Member to the words "or with fine", and this is one of the hardest punishments that can be inflicted upon a transgressor. Honourable Members will find that later on there are provisions in this Bill in which the sins of the son will be visited on the father, and so I think it is very unwise to vest the executive with such unlimited powers who, in their desire to get a lift in service or a title or some other advantage for their sons or relations, are always over-zealous, will inflict the highest punishment and realise the maximum amount that can be realised not only from the transgressor but also from his father. A man may be worth, say, two lakhs of rupees, and there is nothing in the clause to prevent inflicting a fine of one lakh or even more and realise it from his father. (An Honourable Member: "Beware.") Honourable Members who are fathers of sons may themselves, even staunch loyalists under the protecting wings of the officials with expectations of titles and honours, they also must not forget the fact that we have found sons of Government servants joining the revolutionary movements and transgressing the law. They should also beware, whether they are Nominated or elected Members, it does not make any difference at all, there is no distinction between my son and the son of my friend over there, Rai Bahadur Satya Charan Mukherjee, and it is not our sons who will have to pay these heavy fines, but it is my friend over there who will have to pay the same. I may mention here, Sir, that in these terrorist crimes sons of Deputy Magistrates, Rai Bahadurs, Police Officers and others have been found to be implicated like sons of others. Nay, it is the sons of those fathers who are ultra loyal who are going astray more than our sons. Therefore, Sir, I think it is up to every Member of this House, be he a Government servant or a Nominated Member or an elected Member, that he should see that this amount of fine is restricted. At the same time, I appeal to that sweet reasonableness of the Honourable Member to see that this unlimited liability to fine should not have a place in the Bill and that some restriction is placed on the powers of the arbitrary executive.

Mr. D. K. Lahiri Chaudhury (Bengal: Landholders): Sir, I rise to support the amendment which has been moved by my friend, Mr. S. C. Mitra. When we are faced with such a drastic measure like this, I think it is only right and just that some relief should be given to those people who will come under the purview of this clause. In this connection I may draw the attention of the House—and I hope I shall not be called irrelevant on this point,—that the Bombay Government recently in trying to suppress the *Free Press* took a very serious attitude by ordering a sum of Rs. 20,000 to be forfeited which was deposited with Government as security. This is a *prima facie* case in which it is clear that the Magistrate has abused his power in awarding the most vindictive and maximum punishment. Therefore, Sir, unless we put a limit to the amount of fine to be imposed under this clause, I do not know how far the amount of fine can go—it may go up to Rs. 20,000, Rs. 30,000, Rs. 50,000 or even one lakh, and it will be left entirely to the sweet will and pleasure of the executive on whom few Members on this side of the House have any faith, because of the simple reason that the executive is irresponsible. Therefore, every Member on this side of the House, who has a little conscience, who has a little judgment of his own, who has a little power of conviction, will admit that clause 2 should be drafted in such a way as to limit the amount of fine. The amendment suggested by the Honourable the Mover is perfectly reasonable, very proper and cogent, and I hope that at least on this particular issue the Treasury Benches, though doubtless they are in a majority, will see eye to eye with us and accept the amendment. At least from a purely humanitarian point of view, I think they should accept this amendment. With these words, I strongly support the amendment.

The Honourable Mr. H. G. Haig: Sir, the objection that has been taken is that the clause imposes no limit to the fine, and one might have expected, listening to Honourable Members, that we were introducing some new and unheard of principle into the Criminal Law. But, as Honourable Members opposite are well aware, it is an extremely common feature in the Indian Penal Code that the amount of fine is not defined. Let me take, for instance, an offence like theft, which may be an exceedingly petty matter. It is punishable with fine without any limit. But the Penal Code does lay down one provision with regard to fines, and it is important to bear that in mind,—where no sum is expressed to which a fine may extend, the amount of fine is unlimited but shall not be excessive. And, in that connection, I would ask Honourable Members to remember that there will be in all these cases an appeal. If we are to suppose that the Magistrate takes an unreasonable view and imposes an excessive fine, there is always an appeal, and we can be perfectly sure that in the end the fine will not be excessive. There is another safeguard which has perhaps escaped the notice of Honourable Members. There were suggestions that fines to the extent of Rs. 20,000, Rs. 50,000 and even one lakh might be imposed. But these cases will be tried by Magistrates, and, as the House is aware, the maximum fine that can be imposed by a First Class Magistrate is Rs. 1,000.

Mr. Amar Nath Dutt: By tacking another section with the complaint you can take it up to the Sessions Court.

The Honourable Mr. H. G. Haig: I do not think it is likely, in order to get a conviction in a case in which the maximum imprisonment is one year—that we are likely to go to the Sessions Court.

Mr. Amar Nath Dutt: You may tack another section to it and send it to the Sessions Court.

The Honourable Mr. H. G. Haig: The other alarming picture that has been presented to us is that Honourable Members' children will run out and commit these offences and then they will be liable to a fine of Rs. 50,000.

Mr. D. K. Lahiri Chaudhury: Who knows? Your son can also come into this fold.

The Honourable Mr. H. G. Haig: I would suggest that this is not the kind of offence that children under the age of 16 are in the habit of committing, and I think even if Honourable Members have very little control over their children they need not be apprehensive that in this respect their children will get them into trouble. Sir, I oppose the amendment.

Mr. President: The question which I have now to put is:

"That in clause 2 of the Bill, after the words 'or with fine' the words 'not exceeding two hundred rupees' be inserted."

The motion was negatived.

Mr. N. R. Gunjal: Sir, I move:*

"That in clause 2 of the Bill, after the words 'or with fine' the words 'not exceeding one hundred rupees' be inserted."

Mr. S. C. Mitra: On a point of order, Sir. When the motion for a two hundred rupees fine has been defeated, will it be in order to move for this fine of one hundred rupees?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Chair does not see any objection. The House may consider two hundred rupees as too heavy a fine and may agree to limit it to one hundred rupees.

The Honourable Mr. H. G. Haig: I do not think it is necessary to repeat the arguments that I have just stated before the House with regard to the previous amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question that I have now to put is:

"That in clause 2 of the Bill, after the words 'or with fine' the words 'not exceeding one hundred rupees' be inserted."

The motion was negatived.

*The Honourable Member moved the Amendment in the vernacular.

Mr. Lalchand Navabhai: Sir, I move:

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

'Provided that no Court shall take cognisance of an offence punishable under this section unless upon complaint made by order or under authority from the Local Government or some officer empowered by the Government in this behalf.'

Now, we are passing to a different kind of amendment. I do not think this amendment will come in the way of the Honourable the Law Member or create the same difficulty which he was apprehensive of. In other words, I submit that this amendment does not interfere with the clause being kept as one involving absolute responsibility. The category of absolute responsibility will remain as it is. It also does not interfere with or minimise or change the burden of proof. The burden of proof will lie as the clause stands upon the accused to show his *bona fides*. How far that is correct I am not going to say anything further about it. The amendment which I am at present putting forward is only a safeguard, and if it is not accepted, the Government would be open to the reproach of being vindictive. It is the only safeguard against the reckless and unscrupulous ways of the police of which we hear so much. What I want by this amendment is that a blank cheque should not be given to the police to prosecute any man they liked. This amendment aims at having some consideration given to the person who is being prosecuted under this clause. The Local Government under this amendment will have to consider and find out whether the man concerned is really *prima facie* guilty of an offence under this clause. Therefore, it will not only afford a safeguard to the man to be prosecuted, but it will create confidence amongst the people that such cases were considered before the launching of the prosecutions by higher authorities. This very proviso has been added to some of the other clauses, and I do not know why it has not been joined to this clause. In clause 4, which deals with the prevention of boycott of public servants there is a proviso in exactly the same words as the amendment which I am proposing. Just now the Honourable the Home Member said in connection with the question of punishment that this was a serious offence. May I ask if this offence is not more serious or graver offence than the boycott of public servants. Therefore, there should be more precaution taken before a prosecution is launched under this section. If the Government want to prove that they are not proceeding with this Bill in a ruthless manner, but they are ready and willing to give full consideration to the peoples' point of view, then, I submit, that this is a necessary safeguard which should not be refused. The point has now been made so clear. Further more, this clause provides a punishment of one year's imprisonment, whereas clause 4 provides a punishment of only three months' imprisonment and yet there is a similar proviso attached to clause 4, but not added to clause 2. I think the Government will be simply stultifying themselves if this amendment is not accepted.

Sardar Sant Singh So far as the substantive law is concerned, the Government had succeeded in taking its pound of flesh. Not a single amendment has been accepted. If the need for such legislation is very acute, let it be. Now comes the adjective law to be modified. My friend's amendment aims at modifying the procedure in order to meet a contingency that may arise. The Government have been always reminding this side of the House that they should face the realities. It is my turn to remind them that they should face the realities now. They should give up the police mentality and take up a judicial mentality.

(An Honourable Member: "Why not both.") A friend of mine asks, why not both mentalities. The police men's mentality is visible in the whole frame of this Bill. My friend today is supporting this measure. Tomorrow he may find himself in a position to curse himself why he ever supported this measure. This unhappy police mentality is found all over this unfortunate country, but the judicial mentality is lacking. I would appeal to my Honourable friend, the Law Member, who is slowly but surely giving away the power from his hands to his neighbour, the Home Member. In all countries, the rule of law takes the place of the rule of the executive. Here the rule of the executive is taking the place of the rule of law. Before a man is charged with the extraordinary offence created here for the first time, he should beware of the dangers that lie in his path. He should be careful to see that no action is taken which is not warranted by the facts of a particular case. When we complain of the highhandedness of the police, at once comes the reply from the other side that the police are doing their duty in a very upright and public spirited manner. We have no quarrel with that at this stage. What we quarrel about is about placing too much power in the hands of the police. They may consist of angels, but the public have no confidence in them. The public may be wrong, but the impression is there and you cannot deny the existence of that impression. It is the duty of the Legislature to remove that impression if it is a mistaken impression. You are making this offence cognisable under clause 9 of the Bill and giving power to the police to take up the investigation and send up a man for trial. Many of my friends can state from their own personal experience that such cases are taken cognisance of on the shadiest of grounds and the silliest of pretences. Once you give power to the police, the police will not take long in making use of it. There must be some controlling authority and we want if such an act is condemned it should be examined first by the highest authority in the land, that is the Local Government and, if not the Local Government, then some responsible officer empowered by the Local Government to examine this question before the prosecution is launched. The amendment is a very important one. It involves a question of principle and I will submit, with all the emphasis at my command, that the executive should take note of it. They are out to suppress the civil disobedience movement and they should not inflame the public mind unnecessarily. This safeguard should not be lightly disposed of without examining its merits. Sir, I support the amendment.

Hony. Captain Rao Bahadur Chaudhri Lal Chand: The Government's position is not enviable. In the Bill, as was introduced by the Honourable Mr. Haig, all these offences were triable by "any Magistrate" and in that case most of these offences would have gone to third class Magistrates. The fine would not have exceeded Rs. 50. But pressure seems to have been brought upon Government and these offences are now triable by First Class Magistrates only. That is why the previous amendment came in.

Government have agreed to add a similar Explanation to clause 4. Honourable Members will remember that when the first motion on this Bill, that "it should be circulated for public opinion" was being discussed, Mr. Puri, an eminent criminal lawyer, in the course of his speech while criticising the said Explanation remarked that, the safeguard was no safeguard at all. He criticised this very severely and said that the Local Government's sanction would depend on what the District Magistrate wrote and the District Magistrate will write what the sub-inspector will

[Hon. Capt. Rao Bahadur Chaudhri Lal Chand.]

suggest, and so forth. The Court Inspector will produce the Government certificate and, having seen that certificate, the trying Magistrate will only give the accused the maximum punishment. Instead of being a safeguard, this was characterised as a handicap for the accused by the Honourable Mr. Puri. Now another eminent lawyer, Mr. Lalchand Navalrai, says.....

Mr. Lalchand Navalrai: Let us make the best of even a bad bargain.

Hon. Captain Rao Bahadur Chaudhri Lal Chand: He now says this is a safeguard and should be added to clause 2 also. Now this reminds me of a very pertinent remark made by the Honourable Mr. Haig in his speech at Simla in which he said that when the Opposition speaks through many mouths, they sometimes contradict each other. The Honourable Mr. Haig can only give one reply. He will say "I cannot please them and so let things remain as they are."

Now, as regards this amendment, I have only to submit that speedy action is the very essence of all these clauses. If you make it dilatory, and justice is delayed, then, of course, the effect will go. If you add this explanation, it would mean that the cases would come up before the Courts several months after the commission of the offences. That is not desirable in ordinary cases. These are only simple cases triable by Magistrates of the third class, with only two witnesses, and, for all such cases, to go up to the Local Government would be very irksome and inconvenient and expensive. Sir, I, therefore, oppose this amendment.

Mr. S. C. Mitra: Sir, I support the amendment of my friend, Mr. Lalchand Navalrai. I find that in the Bill itself there is a provision that clauses 4 and 7 shall only come into force if there be a notification in the local official Gazette so that the Provinces that do not suffer from this kind of disorder may be exempted from the operation of this Bill. I do not know why this particular clause has also not been incorporated in sub-clause (3) of clause 1, since it has been admitted by the Honourable the Home Member that at present there are very few cases of the kind. The only thing he could say about it was that he had some reports from the military authorities. But we, in Bengal, have no soldiers, no Army and no recruitment.

The Honourable Mr. H. G. Haig: On a point of order, Sir. Is the Honourable Member speaking to this amendment or to another which is coming on later?

Mr. S. C. Mitra: Anybody who has sense will understand how I am developing my point. (Laughter.) Sir, Bengal should not be affected, because if I have heard the Honourable the Home Member aright, he could only cite instances not from any Naval, Air or Police services, but from some Military authorities. What I was pressing for consideration is, that Provinces like Bengal, which are not concerned with the Army, due to a fine sense of justice of the benign Government, should not labour under the same difficulties. I pressed that this clause should come under one of those cases included in sub-clause (3), but the least that I can expect now—if the Government have not the sense to relieve other Provinces where these cases are very infrequent, and it is only a figment of the imagination of the Honourable the Home Member that he must provide for all sorts

of likely and unlikely eventualities—the least thing that can be done is this, as my Honourable friend, Mr. Lalchand Navalrai, has said that there is apprehension in the public mind that any ukase coming from the Local Government for starting cases might prejudice the issue before the Magistrate. That is quite correct. There is some misapprehension, but as we have pressed the point repeatedly, if that has failed to arouse the attention of the Honourable the Home Member, well, I think, this side of the House is not to blame. Though challenged, the Honourable the Home Member could not cite cases, occurring even before the promulgation of this Ordinance or during the subsequent period, of offences against which provisions are sought to be incorporated in this clause. Then, why should not steps be taken and provisions be made so that people may not be unnecessarily harassed? Our contention all along was that it would mean an instrument of tyranny in the hands of the lower police officials and others. Let us provide, I say, against any chance of misapplication and abuse of these clauses. My friend, Mr. Lalchand Navalrai, suggested that the Government, by the strength of their votes in the House, carry everything, but why should there be any hesitation, when they have really got everything that they wanted, in providing that insignificant or unnecessary or petty cases may not be started? Sir, I support my friend, Mr. Lalchand Navalrai's amendment.

Mr. Amar Nath Dutt: Sir, I am doubtful about the efficacy of the provision; and, in fairness to the Honourable Members of the Treasury Benches, I must say that I have not been able to make up my mind in spite of the reasons adduced by my Honourable friend, Captain Lal Chand. Sir, we know how these sanctions are obtained, and these things, as my Honourable friend over there remarked, start generally with a report coming up from the chowkidar to the sub-inspector, then from the latter to the Deputy Superintendent or Deputy Magistrate and then from him to the Magistrate and then from the Magistrate to the Commissioner of the Division and then to the Secretary of the Local Government. There is another danger. Whenever a sanction comes from the Local Government, then, for a Magistrate not to convict will be a very difficult matter.

Mr. Gaya Prasad Singh (Muzaffarpur cum Champaran: Non-Muhammadan): Why?

Mr. Amar Nath Dutt: My friend, Mr. Gaya Prasad Singh, wants to know, why? He need only go back to the days when he was a Magistrate, because, considering the material of which the subordinate magistracy or police in this country is composed in the provinces, I think I would rather agree with my Honourable friend over there, with that Lalchand (Captain Chaudhri Lal Chand) than with our own Lalchand, and I am doubtful about the efficacy of this proviso. I am, therefore, unable to support my friend, Mr. Lalchand Navalrai's amendment.

Mr. Gaya Prasad Singh: Sir, although I support my friend in his main contention relating to the amendment, I want to dissociate myself from the observations that he made with regard to the Magistracy, to which I also had the honour to belong at one time. Sir, it is not the material that is at fault as alleged by the previous speaker, these public servants are our own countrymen, but the system under which they have to work.

[Mr. Gaya Prasad Singh.]

The combination of executive and judicial functions tends to the lowering down of the morale of the officers concerned; and, in the circumstances, they are more objects of our sympathy than of anything else. My Honourable friend's observations were sweeping. Our Magistrates may be bad, good or indifferent, but that does not mean that the entire body should be tarred with the same brush. (Hear, hear.)

The Honourable Mr. H. G. Haig: Sir, I am glad to have heard from my Honourable friend, Mr. Gaya Prasad Singh, a well-deserved tribute to the service to which he himself once belonged. In a somewhat fervent speech to which we listened from Sardar Sant Singh it seemed to be assumed that the procedure proposed in this amendment was something normal and that consequently if it were not provided we were doing something fresh which will be irritating to the country. But, Sir, my first point is that this is a very unusual procedure; it is a cumbrous procedure; and it is obviously not a procedure that should be adopted except for very definite reasons. Now, those reasons, as I conceive them, would be that there is some serious danger that cases would be instituted improperly. Now, I have looked through some of the examples that I have of actual cases that have occurred and it appears to me that those cases, so far as facts are concerned, are, as a rule, perfectly simple. That has nothing to do with the gravity of the offence. The circumstances of the case are usually simple. A Congress agent interfered with recruiting in a particular district with the result that six recruits withdrew after actually joining the recruiting party: recruits and the members of a recruiting party were spoken to by certain men who tried to put them off enlistment: a certain individual lectured a party of recruits and succeeded in making one desert. Those are the kind of cases that have been happening. Now, Sir, I submit that in cases of this kind there is no necessity to go through this elaborate procedure of obtaining the previous authority of the Local Government or some other authority before the commencement of the case. Another point which is of great importance was made by my Honourable friend, Captain Lal Chand, and that is that in cases of this kind it is most desirable that action should be taken promptly, and the procedure proposed will simply involve a delay which the facts of the case do not in any way justify.

Sir, I oppose the amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question I have now to put is:

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

'Provided that no Court shall take cognisance of an offence punishable under this section unless upon complaint made by order or under authority from the Local Government or some officer empowered by the Government in this behalf.'

The motion was negatived.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That clause 2 stand part of the Bill."

The Assembly divided:

AYES—53.

Abdul Hye, Khan Bahadur Abul
Hasnat Muhammad.
Acott, Mr. A. S. V.
Ahmad Nawaz Khan, Major Nawab.
Allah Baksh Khan Tiwana, Khan
Bahadur Malik.
Amir Hussain, Khan Bahadur
Saiyid.
Anklesaria, Mr. N. N.
Bajpai, Mr. G. S.
Bhore, The Honourable Sir Joseph.
Bower, Mr. E. H. M.
Dalal, Dr. R. D.
DeSouza, Dr. F. X.
Dudhoria, Mr. Nabakumar Sing.
Dunn, Mr. C. W.
Dutt, Mr. G. S.
Fox, Mr. H. B.
Graham, Sir Lancelot.
Greenfield, Mr. H. C.
Gwynne, Mr. C. W.
Haig, The Honourable Mr. H. G.
Hazlett, Mr. J.
Hossack, Mr. W. B.
Hudson, Sir Leslie.
Ishwarsinghi, Nawab Naharsingji.
James, Mr. F. E.
Jawahar Singh, Sardar Bahadur
Sardar.
Lal Chand, Hony. Captain Rao
Bahadur Chaudhri.
Mackenzie, Mr. R. T. H.

Macqueen, Mr. P.
Meek, Dr. D. B.
Metcalf, Mr. H. A. F.
Mitter, The Honourable Sir
Brojendra.
Moore, Mr. Arthur.
Morgan, Mr. G.
Mukherjee, Rai Bahadur S. C.
Naydu, Rao Bahadur B. V. Sri Hari
Rao.
Noyce, The Honourable Sir Frank.
Parsons, Sir Alan.
Rafiuddin Ahmad, Khan Bahadur
Maulvi.
Rajah, Rao Bahadur M. C.
Rajan Baksh Shah, Khan Bahadur
Makhdum Syed.
Rau, Mr. P. R.
Ryan, Mr. T.
Sarma, Mr. R. S.
Schuster, The Honourable Sir George.
Sher Muhammad Khan Gakhar,
Captain.
Singh, Mr. Pradyumna Prashad.
Smith, Mr. R.
Sorley, Mr. H. T.
Suhrawardy, Sir Abdulla-al-Māmūn.
Tottenham, Mr. G. R. F.
Yakub, Sir Muhammad.
Yamin Khan, Mr. Muhammad.
Zulfiqar Ali Khan, Sir.

NOES—20.

Abdul Matin Chaudhury, Mr.
Abdur Rahim, Sir.
Dutt, Mr. Amar Nath.
Gunjal, Mr. N. R.
Jadhav, Mr. B. V.
Jha, Pandit Ram Krishna.
Jog, Mr. S. G.
Lahiri Chaudhury, Mr. D. K.
Lalchand Navalrai, Mr.
Misra, Mr. B. N.
Mitra, Mr. S. C.

Murtuza Saheb Bahadur, Maulvi
Savyid.
Pandian, Mr. B. Rajaram.
Phookun, Mr. T. R.
Sant Singh, Sardar.
Sen, Mr. S. C.
Sen, Pandit Satyendra Nath.
Singh, Mr. Gaya Prasad.
Sitaramaraju, Mr. B.
Uppi Saheb Bahadur, Mr.

The motion was adopted.

Clause 2 was added to the Bill.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 23rd November, 1982.

LEGISLATIVE ASSEMBLY.

Wednesday, 23rd November, 1932.

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

QUESTIONS AND ANSWERS.

LORD SANKEY'S APPEAL TO MAHATMA GANDHI.

1410. *Mr. S. C. Mitra (on behalf of Mr. B. Das): (a) Has the attention of Government been drawn to Lord Sankey's appeal to Mahatma Gandhi in the *News Letter* as published in the *Statesman* of the 12th November, 1932? What steps are Government taking to bring Mahatma Gandhi to the path of co-operation?

(b) Are Government now prepared to permit public leaders to negotiate with Mahatma Gandhi to bring about a spirit of co-operation?

The Honourable Mr. H. G. Haig: (a) and (b). I have seen the summary of the article which has appeared in the press. I would refer the Honourable Member to the replies which I have recently given in this House and to the statement made by the Secretary of State in the House of Commons on the 29th April last.

Mr. M. Maswood Ahmad: For releasing Mahatma Gandhi, do Government require any written assurance that he will not revive the civil disobedience movement?

The Honourable Mr. H. G. Haig: I do not think anything has been said about a written assurance.

Mr. M. Maswood Ahmad: Are Government aware that Mahatma Gandhi has directed all his efforts nowadays to the upliftment of the Depressed Classes?

The Honourable Mr. H. G. Haig: No, Sir; I am not aware that he has devoted his whole attention to that subject.

STAFF REQUIREMENTS IN THE ACCOUNTS BRANCH OF THE HEAD RECORD OFFICES OF THE RAILWAY MAIL SERVICE.

1411. *Mr. K. P. Thampan (on behalf of Sardar G. N. Mujumdar): (a) Will Government be pleased to state whether, as in the case of Post Offices, any data has been fixed to regulate the staff requirements to work in the Accounts Branch of the Head Record Offices of the Railway Mail Service and, if so, to what effect?

(b) If the reply to part (a) above be in the negative, will Government be pleased to state whether they intend to make such arrangements?

Mr. T. Ryan: With your permission, Sir, I shall take questions Nos. 1411 and 1412 together. The replies given by me to the Honourable Member during this Session—on the 9th of this month—to the same questions, numbered 1098 and 1099, still hold good.

TAKING OF REST BY THE RAILWAY MAIL SERVICE OFFICIALS AT OUT-STATIONS.

†1412. ***Mr. K. P. Thampan** (on behalf of Sardar G. N. Mujumdar): (a) Will Government be pleased to state whether any standard has been laid down, in the case of Railway Mail Service officials working in sections, with regard to the taking of rest at the out-stations after the completion of their prescribed duty in running trains and, if so, to what effect?

(b) If the reply to part (a) above be in the negative, will Government be pleased to state whether they intend to prescribe one?

PROTECTION TO THE COTTON HOSIERY INDUSTRY.

1413. ***Mr. J. Ramsay Scott:** (a) What are the obligations of the Commerce Department of Government vis-à-vis the industries of India? Are its duties to consider the complaints of foreign competition?

(b) Is the Department able to help Indian industries which are suffering from foreign competition?

(c) Does the Department consider whether or not a case should be sent to the Tariff Board?

(d) If Indian industries consider that they are not being fairly treated by other Government Departments, is the Commerce Department the Department to which an appeal should be addressed?

(e) Have Government had an appeal for protection from cotton hosiery manufacturers?

(f) Did the Tariff Board suggest that this industry should be treated "not otherwise than cotton piece-goods"?

(g) As cotton piece-goods are on the protected list, will Government please state why cotton hosiery goods do not enjoy the same protection as cotton piece-goods?

(h) Are Government aware that the cotton hosiery industry is suffering from intensive competition due to the depreciated currencies of some foreign countries?

(i) What steps do the Commerce Department propose to take to save this industry from being ruined?

The Honourable Sir Joseph Bhoré: (a), (b) and (c). Applications made by Indian industries for tariff assistance are examined in the first place in the Commerce Department, but it does not act independently of the other Departments of the Government of India which may be concerned. As regards the policy of the Government of India in regard to such applications, the Honourable Member is referred to the Resolution of the Government of India, Department of Commerce, No. 8748, dated the 10th July, 1928, which was published in the Gazette of India of the 14th July, 1928, a copy of which is in the Library.

(d) No.

(e) Yes.

†For answer to this question, see answer to question No. 1411.

(f) and (g). The Honourable Member is presumably referring to the Cotton Textile Industry enquiry held by the Tariff Board in 1926-27, but, in the first place, he has not quoted the Board correctly and, in the second place, the extraction of a single sentence from its context is likely to be misleading. The Board's own summary of its recommendations is contained in the following words:

"No justification has been established for the special treatment of the hosiery industry."

(h) and (i). The Government of India have received representations to that effect from certain manufacturers of hosiery who have, it is understood, also made representations to the Tariff Board. These representations have presumably received attention and the recommendations of the Board will receive the consideration of the Government of India.

PREFERENCE TO GOODS MANUFACTURED IN INDIA.

1414. ***Mr. J. Ramsay Scott:** (a) Are Government aware that the Report on the Indian Stores Department, London, for the year 1931-32 shows that woollen goods to the value of £41,741, comprising sewing, braids, felt (if woollen), cap comforters, shalloon, socks and cardigans were purchased in London?

(b) Are Government aware that such articles as felt (woollen), cap comforters, socks and cardigans are manufactured in India?

(c) In view of the fact that the Indian Stores Department is supposed to give preference to goods manufactured in India, will Government please state why these goods were not purchased in India?

(d) Were manufacturers in India asked to tender for these goods?

The Honourable Sir Frank Noyce: (a) Woollen goods to the value mentioned by the Honourable Member are shown in the report on the Indian Stores Department for the year 1931-32 as having been purchased. He is, however, not correct in assuming that the articles purchased were those mentioned by him. The figures of purchase shown in appendix B of the Report refer to the main classification of stores given in the first column of the statement which is headed "Government of India's classification". The description of stores given in the second column appears year by year in the Report and is merely an additional and amplified classification which does not purport to specify the articles purchased during the period under review. Full details of the stores under the heading "Woollen Goods" valued at £41,741 are not available in India. Particulars, however, regarding purchases of woollen goods to the value of £37,400 are available, but none of these purchases relate to any of the articles mentioned by the Honourable Member.

(b) Yes.

(c) and (d). I am not at present in possession of precise information as to why the goods of which particulars have been given in my reply to part (a) were not purchased in India, but I am making enquiries on the point.

Mr. Gaya Prasad Singh: May I know for what purpose these woollen goods were purchased in England?

The Honourable Sir Frank Noyce: I have explained in my reply to parts (a) and (d) that I am not at present in possession of precise information as to why they were not purchased in India, but I am making inquiries on that point.

Mr. Gaya Prasad Singh: My question was, for what purpose were they purchased there?

The Honourable Sir Frank Noyce: Because they were required.

Mr. Gaya Prasad Singh: By what Department?

The Honourable Sir Frank Noyce: I think by the Army Department.

Mr. M. Maswood Ahmad: Will the Honourable Member be pleased to lay on the table the result of the inquiry?

The Honourable Sir Frank Noyce: Certainly, Sir.

Mr. J. Ramsay Scott: Is the Honourable Member aware that the headings I have given are those mentioned in the report?

The Honourable Sir Frank Noyce: I am quite aware of that fact. If the Honourable Member will look at the report again, he will see that the heading of column A is "Government of India's classification". The heading of column B is "Indian Stores Department's additional classification". What that means is merely that the articles under that head are also included in heading A, i.e., that the various things, such as comforters, sewing, braids, caps, etc., if they are made of wool, come under the head of woollen goods. That is all that it means: it is merely an *aide memoire*. As a matter of fact, I do feel that the classification is somewhat misleading and I am taking up that point.

Mr. J. Ramsay Scott: Thank you.

COMMUNAL COMPOSITION OF THE SUPERINTENDENTS OF POST OFFICES IN THE UNITED PROVINCES POSTAL CIRCLE.

1415. ***Mr. M. Maswood Ahmad:** Will Government please state what the total number was of Superintendents of Post Offices in the United Provinces Circle, on (i) 1st August, 1926, (ii) 1st August, 1928, (iii) 1st August, 1930, and (iv) 1st August, 1932, showing separately the total number of (1) Hindus, (2) Muhammadans, and (3) others on each of these dates?

The Honourable Sir Frank Noyce: A statement giving the required information is laid on the table.

Number of Superintendents of Post Offices, including Assistant Postmasters General, in the United Provinces Circle on various dates.

Date.	Number of Superintendents.	Hindus.	Muslims.	Others.
1st August, 1926	20	5	9	6
1st August, 1928	20	9	6	5
1st August, 1930	21	9	8	4
1st August, 1932	18	11	4	3

DECREASE IN THE NUMBER OF MUSLIM SUPERINTENDENTS OF POST OFFICES IN THE UNITED PROVINCES POSTAL CIRCLE.

1416. ***Mr. M. Maswood Ahmad:** (a) Will Government please state the present total number of Superintendents of Post Offices and Railway Mail Service in the United Provinces, showing separately the total number of (i) Hindus, (ii) Muhammadans, and (iii) others who actually hold charge of the Divisions either as permanent or officiating Superintendents?

(b) Is it a fact that the total number of Muhammadan Superintendents in the United Provinces Circle has been constantly on the decrease for the last several years with the result that now, out of a total number of 15 Postal and Railway Mail Service Superintendents in that Circle, there is only one Muhammadan Superintendent or so actually holding charge of a Division against 12 or 13 Hindu Superintendents?

(c) Is it a fact that the Superintendents of Post Offices and Railway Mail Service have recently been given much wider powers regarding punishment, and do Government propose to increase the number of Muhammadan Superintendents in the United Provinces? If so, when do Government expect to do so?

The Honourable Sir Frank Noyce: (a) The total number of Divisional Superintendents of Post Offices and the Railway Mail Service in the United Provinces at present is 15, of whom 12 are Hindus, 1 is a Muhammadan, and 2 are of other communities. In addition, one Hindu, one Muhammadan and one member of another community are acting as Assistant Postmasters General.

(b) The actual position is given in the statement laid on the table in connection with the reply just given to the Honourable Member's question No. 1415.

(c) The reply to the first part is in the affirmative. I may mention in this connection that certain representations have been received which are being examined. As regards the second part, Government are not at present considering any proposal to increase the number of Muslim Superintendents in the United Provinces Circle, as the postings of Superintendents of Post Offices are not made solely on a communal basis, but to meet the requirements of the service.

REPRESENTATION OF MUSLIM OFFICERS IN THE OFFICES OF THE POSTMASTER GENERAL.

1417. ***Mr. M. Maswood Ahmad:** (a) How many gazetted and other officers are attached to each of the Postal Circle Offices in India and how many of them are Muhammadans as actually working at present?

(b) Is it a fact that in some of the Postal Circles in India the number of Muhammadan officers at the headquarters of the Circle is only nominal or very low, and, if so, how do Government propose to secure an adequate representation of Muslim officers in the offices of the Postmasters-General?

The Honourable Sir Frank Noyce: (a) As regards the gazetted staff, a statement is laid on the table. As regards the non-gazetted staff, the information is not readily available and Government do not propose to collect it as the time and labour involved would not be commensurate with

the result. The composition of the total staff of the Posts and Telegraphs Department by communities is given on page 53 of the last Annual Report of the Department, a copy of which is in the Library of the House.

(b) As regards the first part of the question, the Honourable Member's attention is invited to the statement referred to in the reply to part (a) above. As regards the second part, the postings of gazetted officers are made not on a communal basis, but to meet the requirements of the service.

Statement showing the number and community of the gazetted officers attached to each Postal Circle.

	Hindu.	Muham- madan.	Other.	Total.
Bengal and Assam	5	1	5	11
Bihar and Orissa	3	1	1	5
Bombay	1	3	7	11
Burma	1	..	6	7
Central Circle	4	..	3	7
Madras	3	..	7	10
Punjab and N.-W. F.	2	2	6	10
United Provinces	3	1	5	9
Sind and Baluchistan	2	..	2	4
	24	7	42	73

Mr. M. Maswood Ahmad: With regard to the statement of Government that "the time and labour involved would not be commensurate with the result", are Government aware that the Member who puts the question is in a better position to judge whether or not it will be useful to the community or to the country, than Government?

The Honourable Sir Frank Noyce: I have referred the Honourable Member to the last annual report of the Department from which he can extract information which will, I think, be of use to him.

PROMOTION OF QUALIFIED JUNIOR OFFICIALS TO THE LOWEST SELECTION GRADE IN THE POSTAL DEPARTMENT.

1418. ***Mr. M. Maswood Ahmad:** (a) Is it a fact that some "junior officials", qualified for promotion to the lowest selection grade of Rs. 160/250 in the Postal Department, became eligible and reached their actual turn for promotion to that grade in vacancies which occurred before the 15th March, 1982, due to deaths or retirements other than those under the retrenchment concessions, but were not given the promotion, only due to the existing orders prohibiting such promotions permanently or due to the fact that the vacancies were not filled up and were utilised for the abolition of appointments in the grade?

(b) Will Government please state the total number of such officials in the various cadres in each Circle and Circle Office separately?

(c) Is it a fact that the turn of these officials for promotion to the grade had already come before the introduction of the present system of promotion to the grade and that this fact has adversely affected their case without any fault on their part?

(d) In case the number of such officials in each Circle Office and Circle is really very small, are Government prepared to consider their case and remove their grievance by issuing orders to the effect that these officials should be allowed the same position in the list of qualified candidates as was held by them under the "fifth vacancy" system and should be promoted to the grade in the existing and future vacancies accordingly, being given full benefits of the previous system?

Mr. T. Ryan: (a) Yes, but the "junior" passed officials are not the only ones thus affected by retrenchment.

(b) Government have no information.

(c) Yes, but it is retrenchment which has prevented their promotion.

(d) These officials like many others have no doubt been adversely affected by retrenchment, but Government are unable to admit that they have any other special, or remediable grievance. Under the revised system of promotion, they will have ample chances of promotion to the Inspectors' cadre, which carries the same pay as the Lowest Selection Grade. In the circumstances, Government regret that they do not see their way to according to this staff the special treatment suggested by the Honourable Member.

EXPORT AND IMPORT OF GOLD FROM INDIA.

1419. ***Mr. M. Maswood Ahmad:** Will Government be pleased to state, in rupee value and in quantity, what the total export and import of gold is from the time England went off the gold standard up to the 10th November, 1982?

The Honourable Sir George Schuster: Exports and imports of gold from the 22nd September, 1981, to the 29th October, 1982, the latest date up to which figures are available, were as follows:

Exports—about 12½ million fine ounces, value about Rs. 94 crores.

Imports—about 380,000 fine ounces, value about Rs. 2-1/8 crores.

ESTABLISHMENT OF A FACTORY FOR THE MANUFACTURE OF CARBON PAPERS AND TYPEWRITER RIBBONS IN KARACHI.

1420. ***Mr. Lalchand Navalkar:** (a) Will Government be pleased to state whether they are aware that a factory for the manufacture of carbon papers and typewriter ribbons has been established in Karachi under the name of "Bharat Carbon and Ribbon Manufacturing Co."?

(b) Is it a fact that that is the only factory of its kind in India?

(c) Will Government be pleased to state if articles of the kind turned out by this factory will have any relation to the Ottawa Agreement?

(d) Are Government prepared to see that this industry is not affected by the Ottawa Agreement or the proposed amendment of the Indian Tariff Act?

The Honourable Sir Joseph Bhore: (a) and (b). Yes.

(c) The attention of the Honourable Member is invited to items Nos. 84 and 123 in Schedule F to the Trade Agreement made at Ottawa between His Majesty's Government in the United Kingdom and the Government of India and to items Nos. 195 and 198 in the new Part VIII which the Government of India propose should be added to Schedule II to the Indian Tariff Act, 1894, to implement the Trade Agreement. Copies of both the documents named have, I think, already been supplied to the Honourable Member.

(d) Government see no reason to suppose that the industry in question will be injuriously affected by the Agreement.

Mr. Lalchand Navalrai: What are the reasons for Government to think so? This is an infant industry and it should be supported.

The Honourable Sir Joseph Bhore: Because, even under the proposed rates, there will be a duty of 20 per cent. *ad valorem* even against British goods and 80 per cent. against all others.

PROTECTION AGAINST TEMPLE ENTRY BY UNTOUCHABLES.

1421. ***Pandit Ram Krishna Jha:** (a) Will Government be pleased to state whether His Excellency the Viceroy and the Governor General in Council received a memorial submitted by the orthodox Hindu community and priests of the temples of Benares, praying for protection against temple entry by the untouchables?

(b) Have the Government of India received a similar memorial from the Meerut Branch of the All-India Varnashram Swarajya Sangh?

(c) If so, has any of the two memorials yet received the consideration of the Government of India and have Government decided to give the protection prayed for?

(d) If the memorials have not yet received the consideration of Government, when are they likely to receive it?

The Honourable Mr. H. G. Haig: (a) Yes.

(b) No.

(c) and (d). The policy of Government in regard to controversies on religious questions is one of neutrality.

Rao Bahadur M. C. Rajah: Will Government be pleased to state the definition of the term "orthodox Hindu community" and whether the orthodox Hindu community comprises of non-Brahmins or Brahmins, and whether the orthodox Hindu community and the priests of the temple of Benares are the owners of those temples or whether the priests are the servants of the temples depending for their livelihood upon the income of the temples?

The Honourable Mr. H. G. Haig: The Honourable Member has prepared a very elaborate supplementary question and I would suggest that he should put it down in writing and give me due notice.

PROTECTION AGAINST TEMPLE ENTRY BY UNTOUCHABLES.

1422. ***Pandit Ram Krishna Jha:** (a) Are Government aware that amongst the Hindus in every part of India the number of persons holding orthodox views is overwhelmingly large, as compared with that of the dissenters from the orthodox Hinduism?

(b) Are Government aware that there is a very strong feeling amongst the orthodox section of the Hindu population in every part of India against temple entry (either forcible or otherwise) by the untouchables, as it is regarded as a clear infringement of the *Shastric* rules?

(c) Are Government aware that persons, who advocate temple entry by untouchables or removal of untouchability, are mostly, if not exclusively, those who did not observe untouchability from before or who very seldom, if ever, care to go to any temple or attach any importance to worships in the temple?

(d) Have the Government of India decided upon any policy to be followed in the matter of the present agitation for forcing entry in the public and private temples by untouchables?

(e) With reference to the answers given by the Honourable the Home Member, to supplementary questions put by Pandit Satyendra Nath Sen on the floor of this House on the 7th November, 1932, are Government prepared to issue a communiqué clearly dissociating themselves from the present movement as to the temple entry and expressing complete and unqualified neutrality in the matter?

The Honourable Mr. H. G. Haig: (a), (b) and (c). Government are aware that there is opposition to the proposal that untouchables should be allowed to enter temples. They are not prepared to give an estimate of the strength of that opposition.

(d) and (e). I would refer the Honourable Member to the reply I have just given to question No. 1421 and to the reply given to Pandit Satyendra Nath Sen's question No. 1306 on the 21st November.

Diwan Bahadur Harbilas Sarda: With regard to parts (b) and (c) of this question, are Government aware that Pushkar, which is called Pushkar Raj in India, as being the King of Hindu places of pilgrimage, there is the temple of Brahma which is the only important temple in the whole of India dedicated to God Brahma, and that the Mahant of that temple has thrown open that temple to the untouchables of all classes without any protest on the part of the Brahmins or the orthodox people of that sacred place?

The Honourable Mr. H. G. Haig: That, Sir, is a piece of information which, I am sure, the House will be glad to receive.

Mr. Gaya Prasad Singh: Is the Honourable gentleman who put the original question in a position to quote Shastras to prove that temple entry is prohibited to the untouchables?

Pandit Ram Krishna Jha: Undoubtedly any number; but this is not the occasion.

STATEMENT REGARDING THE CAMPAIGN AGAINST UNTOUCHABILITY ISSUED
BY MR. M. K. ACHARYA.

1423. *Pandit Ram Krishna Jha: Has the attention of Government been drawn to the statement regarding the campaign against untouchability issued by Mr. M. K. Acharya, an ex-M. L. A., as published in the issue dated November 11th, 1932, of the *Statesman*?

The Honourable Mr. H. G. Haig: I have seen the statement.

Mr. R. S. Sarma: Has the attention of Government been drawn also to the counter statements from influential quarters published in the press in complete repudiation of the views that this ex-Swarajist has been airing?

The Honourable Mr. H. G. Haig: I have seen a number of statements on both sides of this controversy.

THE CRIMINAL LAW AMENDMENT BILL—contd.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is that clause 3 do stand part of the Bill.

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): Sir, I move:

"That clause 3 of the Bill be omitted."

My reason is that this clause, too, is unwarranted and unnecessary. So far as the principle of this clause is concerned, it relates to tampering with public servants and it is unexceptionable. But I think it lies with the Government to show that there are numerous cases in different provinces in India where attempts had been made to tamper with public servants. So far as I have heard, I think the Honourable the Home Member could only refer to certain very few instances in Guzerat. Even admitting them, there is no justification to have a general law for the whole of India. It is not that the Legislature of a country is required to legislate against every thing that may be considered by Government or anybody as not strictly moral or for the best interests of the existing Government. If there are frequent infringements where public servants are actually tampered with, I think there will be no objection to have a clause like this. So I repeat my argument that I urged against clause 2 that unless Government could show that there were cases even during this Ordinance period or even earlier to that, certainly we should revise our opinion and see if there was any necessity for such legislation.

It seems that Government are anxious to create a new caste in an already caste ridden country like India. The officers of Government enjoy great privileges and, because of their high salaries, they have already formed an aristocratic class. But it seems they are anxious to become untouchable also, because even the terms of this clause are very vague as it says that: "whoever induces or attempts to induce any public servant to fail in his duties as such servant", and so on. Any number of cases can be brought under the purview of the phrase "to fail in his duty". I

know some of the higher officials think that all their inferior servants are in duty bound to carry out all their orders, whether they are legal or illegal, constitutional or otherwise, and, therefore, if you make the phraseology so vague and so wide, it is not clear to what class of people the scope of this clause may not be extended. Further, the definition of the words "public servant", though it has been improved by the Select Committee by making it definite, is still so wide that it includes a railway servant, a village *chowkidar* and an employee of a public utility service as defined in section 2 of the Trade Disputes Act. Sir, in the Ordinance itself "public servant" did not include all these classes such as any public servant on a railway administration or a village *chowkidar*. Now, the definition of "public servant" is so wide that a railway coolie, who may be asked to take a passenger's luggage in preference to taking another passenger's luggage, may also take shelter under this clause, and any man may be put to difficulties. There are large numbers of village *chowkidars* throughout the length and breadth of India, employees of public utility services like Corporations, Municipalities, District Boards, Local Boards and Union Boards, and all these people will come under the definition of a "public servant", and any inducement or attempt to inducement to fail in their duty will be punishable with imprisonment for a term of one year or with a fine of an unlimited amount. Unless, therefore, the Honourable the Home Member can make out a specific case that there is an urgent necessity for such a clause in this emergent Bill, I urge that this clause should be entirely omitted.

Mr. B. N. Mitra (Orissa Division: Non-Muhammadan): Sir, of the several clauses in this Bill, the present clause, which is now under discussion, seems to be the most imaginary. As my friend, Mr. Mitra, pointed out, there may be 20,000 or more public servants in India, I am putting a most moderate number

Mr. S. C. Mitra: The Railway Administration itself has got several lakhs of people.

Mr. B. N. Mitra: All right, there may be some lakhs, but can the Honourable the Home Member point out even a hundred cases of public servants who have failed to discharge their duties either in pursuance of the Congress movement or any other movement? This is like the Sanskrit saying "Siro nasti kutah byatha?", which means "you have no head, but wherefrom are you getting headache?" (Laughter.) I want to know from the Honourable the Home Member whether he can cite any cases in which the public servants have failed in their duties? Can my friend point out, out of the several lakhs of public servants in the country, at least 1,000, 500, 100 or even 10 cases which have come to his notice, of public servants who have failed in their duties? Can he say that even one per cent. of the total number has failed? As has been said, the whole Bill is directed against the Congress movement. It appears to me, Sir, as I said in the beginning of my remarks, that this is a most imaginary case. Supposing a cook fails to prepare food at a proper time and he delays to prepare the food by, say, 20 minutes, then certainly he will come under this definition (Laughter), because the cook has not prepared the food by a certain time and, therefore, the master, a public servant, has failed in his duties and so he must be punished with one-

[Mr. B. N. Misra.]

year's imprisonment. I appeal to the Honourable the Home Member to consider the effect of this vague clause. Of course, Magistrates will be ready to hear such cases and award punishments. It reminds me of a talk I had with a Magistrate who, in a particular case, had gone wrong in his judgment. He said: "Well, our superior advisers have said we must have an elastic conscience, i.e., a conscience that will not feel pricks and so we should also have no conscience. The biting of conscience must be like a foot ball; it will come and go, but it will not affect our conscience." So, perhaps, this Legislature is now played like a foot ball: anything can be carried in this House. I am sure the Government will carry even this vague motion. I appeal to all Honourable Members not to agree to such an absurd clause as this. The question is: are there many cases at all to justify the introduction of such a clause like this?

Major Nawab Ahmad Nawaz Khan (Nominated Non-Official): There have been many such cases.

Mr. B. N. Misra: I am asking the Honourable the Home Member to tell me how many such cases there are.

Mr. M. Maswood Ahmad (Patna and Chota Nagpur cum Orissa: Muhammadan): Were those cases in the North-West Frontier Province?

Mr. B. N. Misra: Sir, this clause ought not to be on the Statute-book at all without sufficient justification. Now, what is the meaning of this phrase "induces or attempts to induce a public servant"? Suppose a child has a fall, and if the doctor is late by half an hour, if the wife asks the husband to stay, she comes under this definition, because he fails in his duties. The motive must be taken into consideration, but nothing is said about the motive. Supposing a boy is ill, and his mother tells the father to take care of the boy for just half an hour, but if the father happens to stay away owing perhaps to more pressing or urgent work, can she be punished? I appeal to the Home Member that, before he hears any further speeches, he should at once agree to withdraw this clause. Of course, as an Englishman he is equipped with a better command of the English language than I can claim to possess and he will be able to give a proper explanation. The whole clause is absolutely vague and meaningless. Suppose when a carriage passes along the road, a dog barks and the carriage tumbles down, will the dog come under the purview of this clause? (Laughter.) What is the motive behind all this, I for one cannot understand. Sir, I, therefore, whole-heartedly support the motion that this clause be omitted.

Mr. B. V. Jadhav (Bombay Central Division: Non-Muhammadan Rural): I rise to support the amendment moved by Mr. Mitra. The clause, as originally drafted, was very drastic and the Select Committee tried its best to amend it. Even in this amended form it is not worth acceptance by this House. I am conscious that when Government, in their overweening confidence allowed Mahatma Gandhi to proceed in his progress to the seashore where he broke the Salt Law, there were a number of village officers in Guzerat who were induced to give up their service and, in many places, Government servants, on account of the boycott

proclaimed against them, were put to very great inconveniences. I have to admit all that, because I am personally aware of what things were done in the province of Guzerat in the name of boycott. But, Sir, all those persons, who took part in that propaganda and all those who gave up their services or offices on account of the propaganda, ultimately came to repent of their hastiness and many of them approached Government to pardon them and to take them back in their service. All these people have come to realise that such attempts to make Government futile are failures and certainly recoil on their heads. So I do not think that even if the Congress were allowed to make a serious propaganda even in Guzerat, they will find a considerable number of officers and men who will be foolish enough to comply with their demands to give up Government service. The experience of the past has been enough for them and I am quite sure that any person who attempts such inducement will meet with a severe rebuff. I do not know what the condition was in other parts of India, but I am led to believe that it was not so very serious, and if there were any attempts at all, they must have been very sporadic and of no consequence whatsoever. Under these circumstances, I hold that there is no need for such a clause which, without assisting the Government in administration business, will give a very wide loophole to low-paid officers to bully and to frighten innocent people with prosecution.

If we consider the provisions of the clause, we will at once find that an accusation under the clause can be very easily brought by an unscrupulous person. "Whoever induces any public servant—" that is something. If a person induces a public servant to fail in his duty, he must have done some act causing inconvenience to Government and, therefore, it might be argued that he should be hauled up before a Court of law and punished. But what is the second part? "Or attempts to induce". The attempt is not successful. The officer against whom that attempt has been made is staunch in his devotion to Government, sticks to his duty and no evil effect has arisen. Still the person who attempts to induce any public servant to fail in his duty is held equally liable to be punished. And who are these officers? Not only those who come under section 21 of the Indian Penal Code, but also a servant of a local authority, etc. A local authority may be a municipality, or a village panchayat or a district local board. The servants of such local authorities are very poorly paid, are very badly paid, and, therefore, this power places in their hands an inducement to frighten other people with prosecution under this clause and to get gratified in some other way. The clause again says: "a servant of a railway administration". We are not at all afraid of high paid officers, but we are afraid that false and frivolous complaints may be lodged by low paid officers in order to benefit themselves. And that is the reason why we, on this side, are so very strong in opposing this clause. As regards village *chowkidars*—I do not know what the condition is in other parts of the country, but the *patil* in a village in the Bombay Presidency is, I understand, the same as the village *chowkidar*—we know for instance in the village the *patil* is a very important person, and he belongs to one faction and there are other people who belong to another faction, and it is not very rare that *patils* take one side and accuse members of the other faction. And this clause will give opportunities to these village *chowkidars* to wreak their vengeance on people who do not side with them.

Dr. F. X. DeSouza (Nominated Non-Official): The *chowkidar* is a watchman and not a *patil*.

Mr. B. V. Jadhav: I understand he does the same work as the *patil* does in the Bombay Presidency.

Rao Bahadur B. V. Sri Hari Rao Nayudu (Madras: Nominated Official): He is not a village headman, but a *talaiyari*.

Mr. B. V. Jadhav: The matter becomes still worse. I do not think that there is any necessity to give protection to the servants of local authorities or railway administrations. If the administration of a local authority is disorganised, the people themselves will suffer, and I do not think that any sane person, any sane Congress worker will attempt to induce the servants of local authorities to give up their service and thus cause inconvenience to the locality in general. Therefore, there is no necessity for bringing the servants of local authorities under the definition of a public servant. So also in the railway administrations. The low paid officers of railways cannot disorganise the railway administration or the railway service; and I do not think that there is any necessity for bringing the servants of a railway administration under this clause. Similarly, in the case of a village *chowkidar* or an employee of a public utility service, as defined in section 2 of the Trade Disputes Act, 1929. It is very dangerous to include all these persons in the definition of a public servant, because it will deprive any labour worker to organise such bodies and to advise them to go on strikes in order to get their grievances redressed. This strikes at the root of the whole labour question and, therefore, I claim that these persons ought not to be included there. For these reasons I submit that the clause is not needed and I strongly support the amendment.

Raja Bahadur G. Krishnamachariar (Tanjore cum Trichinopoly: Non-Muhammadan Rural): I very strongly support this amendment. The first and the most important ground upon which I support this amendment is this. Reading the clause as I do and not being acquainted with the English language perfectly, what I want to understand and what I want the Member in charge of the Bill to make the House understand is this. The clause runs:

"Whoever induces or attempts to induce any public servant to fail in his duty,"

and so on. When are you supposed to fail in your duty? I can understand a person preventing a public servant in the discharge of his duty. It is more easily capable of proof. When am I supposed to fail in my duty? A sympathetic officer considers that a lapse on the part of the subordinate is not a failure. Another man, probably attacked with a fit of indigestion, thinking that the official is a habitual shirker, pounces upon the least chance and says: "Oh, the man has failed in his duty". He asks him for an explanation and he turns round and says "I am not responsible". There is an old story among Tamilians which says that a potter was accused of not making his pot properly. The potter's reason was that there was a dancing girl passing and re-passing in front of him and he was always looking at her and, therefore, he was not able to do his work properly. He was ordered to be put on the stocks and when he was taken to the stocks, it was found that he was too lean and the stocks would

not fit him. There was a fat Komati who was passing that way and they said that the Komati was just the man who would fit into the stocks and so they got hold of him and put him in it. This is exactly what is happening here. We used to hear this story in the olden days, but here, in the most solemn manner, the same thing is being enacted into law. You have not defined what constitutes a failure. It all depends upon the state of feeling in the country how cases of this sort will be disposed of. The case would probably go before a Second Class Magistrate. He has got his eye on his promotion.

An Honourable Member: First Class Magistrate.

Raja Bahadur G. Krishnamachariar: Even if he is a First Class Magistrate, he is only a human being and he wants to get into the next higher job. The regret is all the greater in his case, because the thing is within his grasp and yet it does not come within it.

Well, Sir, my friend, Mr. Jadhav, has pointed out the danger of keeping the word "attempting". Who is there to decide properly that there has been an attempt to make a man fail in his duty? I think ridiculousness cannot go beyond this. Here is a man who has shirked his duty, but he has got a troublesome neighbour and he says "this other fellow prevented me from doing my duty" and straightaway the poor fellow gets six months' rigorous imprisonment. With the amendment that was adopted to the Criminal Procedure Code the other day, there is no chance of asking for an adjournment and taking the case before another Magistrate. You may break your head and yet there will be no redress. I warn this House of the great danger that underlies this clause. If you are a resident in a mufassil station, if you are not particularly anxious to be in the good books of the local officials by *khushamading* them and confessing in many ways that you are their inferior, the even tenor of your life will be at their mercy. I am not exaggerating the position. If you have lived in the mufassil and if you are an influential man, you will know what the position there is. Sir, I have had something to do with legislation and I warn this House that anticipatory legislation is a dangerous thing to resort to. I do not know what happened in the Select Committee, because I have not had the honour of being a member of it, but so far not a single material has been placed before us to show the danger that is attendant upon society by not enacting this provision.

My friend, Mr. Misra, has asked where is your trouble, what is the inconvenience to which you have been subjected, that you should rush to this House and ask for these powers. We may cry ourselves hoarse, but the official block and the rest of the community who do not suffer and who have no personal experience of the suffering will pass this law, but you are sitting on the top of a volcano. It is only an imbecile Government that cannot control their servants that will ask for these powers. A strong Government that have control over their servants will not ask for these powers. Therefore, I ask the House not to agree to this vague, indefinite and ununderstandable clause. Now, the explanation puts the coping stone to the ridiculousness of this clause. I shall take it from the end. It mentions a *chowkidar*. We have not got a *chowkidar* in the Madras Presidency, but my friend here says it is a *talaiyari*. The *talaiyari* or *vetti* is a servant of the village. He is the servant of the village *munsif* or *patel* as they call him in the Bombay Presidency. I will tell you

[Raja Bahadur G. Krishnamachariar.]

what exactly are the duties which he performs. The *karnam* sends his demand for the *kist* to the village munsif and the village munsif sends the *talaiyari* to the landholder to bring in the money. Directly the *talaiyari* comes, you have got to give him four annas for toddy. If you don't do that, you will have a two-page report against you and the whole force of the revenue department—I can quote chapter and verse in support of what I say,—will come down on you, simply because you did not pay four annas to the *talaiyari* for his toddy. And, then, he is not able to collect the money, because in these times of depression there is no money to pay. He tells him: "Baba, come tomorrow". He goes and then comes back. That man will not yet pay him. What is the result? Krishnamachariar is prosecuted! Six months' rigorous imprisonment. Why? Because the four annas for the *talaiyari's* toddy has not been paid! I am not exaggerating. I am talking of things that are happening everyday. These *talaiyaris* have got to be paid for it. The District Magistrates know it only too well. If you privately ask some of my friends who are District Officials and who are sitting here, . . .

Rao Bahadur B. V. Sri Hari Rao Nayudu: I demur to that statement. It is quite wrong, Sir.

Raja Bahadur G. Krishnamachariar: You must have then been living in Paradise yourself.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order.

Raja Bahadur G. Krishnamachariar: Very well, it does not matter. There is no question of what is happening in Hyderabad. I am only paying my *kist* to the British Government and that is a very large sum, and that is why it is troubling me. Then the next person protected is the servant of a local authority. I will tell you exactly what happens. The servant of a local authority has got to collect taxes. Quite recently there was a municipal prosecution instituted against my man—not against me, I was here—because he did not pay the house tax for a house which he does not own. The house is in my name. He was prosecuted. Why? Because the tax-collector came to blows with him over another matter not connected with my house. He can easily report "He saw me at a distance and he closed his door." He could not break open the door unless he goes to the chairman and gets an order from him. Then a prosecution starts. You will thus see that there is a very easy way of getting money in these days of depression. Sir, I cannot lay too much stress upon this point. I can quite understand that it is the duty of a Government to govern; I have held something of a responsible post myself although my friends would say it was in a backward place where *talaiyaris* are being bribed and in British India you do not do it. I know a Government has got to govern and that it has got certain duties and that it is impossible to carry on a Government with the threat always hurled at them that unless "you do this or do that, civil disobedience will follow". But surely you do not want a *chowkidar*, a villager, and a *talaiyari* to be protected everywhere "from failing in his duty"! That man never does his duty. (Laughter.) And, then, when taken to task why he does not do his duty, he says: "Is it so? Very well, I am not

particularly in the good books of the officials, because I do not go to railway platforms with garlands in my hands to meet them, nor do I use mellifluous phrases in addresses." Very well, next time the *talaiyari* is accused of failure of duty, he will report that certain things have not been done because of me! Sir, that is the danger, and I warn this House not to agree to this clause but to throw it out lock, stock and barrel.

Mr. Goswami M. R. Puri (Central Provinces: Landholders): Sir, I rise to support this amendment. My Honourable friends, Mr. Mitra, Mr. Jadhav and Raja Bahadur Krishnamachariar, have dwelt exhaustively on the point and so I do not think I need elaborate it, but I want to say one thing here that this clause, as at present drafted, is too wide and it will prove rather very objectionable to people like me who are believers in law and order. In the "Definitions", the village *chowkidar*, the servants of railway administrations and the servants of local authorities have been mentioned. The objections to that have been fully explained by my friend, Mr. Jadhav, so I do not think I need say anything more, but I would like to advise the Government that they should not try to rule India with an iron rod, but should try to invite the co-operation of the subjects. With these words, Sir, I support the amendment.

Mr. Amar Nath Dutt (Burdwan Division: Non-Muhammadian Rural): Sir, this clause is another illustration of clumsy draftsmanship of the Legislative Department of the Government of India. It is one of the clumsiest drafts I have ever come across and a mere perusal of the clause will at once convince the House that it is so. "Whoever induces"—Sir, I think I can claim some knowledge of the language which is the mother-tongue of my Honourable friend, the Home Member. Sir, if he be conceded that sometimes English is better spoken and better understood in countries further off from England, as has been observed by a great statesman, I think my Honourable friends over there will not find fault with me if I quote from the Oxford Dictionary the meaning of the word "induce": "Induce" means 'prevail on, persuade, bring about, give rise to, produce by induction.' Do they mean by the word "inducing" that all these things will be punishable, or do they want to stick to one meaning of the word? If so, I would like to know which. Then, "to bring about": I draw the special attention of the House to the meaning of "bring about" as given in the Oxford Dictionary. Sir, "who brings about": "if he brings about", he is to be prosecuted. Certainly, he cannot "bring about" a failure of what is conceived to be the duty of a public servant! Then, again, "fail in his duty": the word "duty" means, according to that Dictionary, "moral or legal obligation" and also "what one is bound or ought to do": all vague phrases. Then, again, "duty" means "business, office, function". Now we must have a categorical list of all the duties of the various public servants who have been included in this clause even more than the definition in the Indian Penal Code to which has been added the servants of a local authority, a railway administration, a village *chowkidar* and employees of public utility services as defined in the Indian Trade Disputes Act. They have taken the trouble of defining as to who are to be treated as public servants and they ought to have defined also their respective duties. A man is not likely to know what are really the duties of a public servant contemplated in the clause.

[Mr. Amar Nath Dutt.]

Sir, I shall give one instance about that class of public servants who are called *chowkidars*. I do realise that it will be very difficult for any officer of the Government to define the actual duties and the legal and moral obligations of a *chowkidar*. I remember a *chowkidar* was once collecting fuel from a cremation ground, the remnants of the fire which were left behind after cremating the dead body. I was out in the morning for a walk by the side of a rivulet near my village and I found the man near the cremation ground where ordinarily a man does not go. I was surprised to find the man there and I asked him what was he doing there? He said: "Babu, I am collecting fuel for the *sala*". The '*sala*' here refers to the sub-inspector of police. I was told that every *chowkidar* is to collect fuel, and take the same to the *thana* on the day of his *hasri* which is once a week. Now, this poor man cannot purchase the fuel for the sub-inspector, nor can he steal it and, therefore, the remnants of the cremation ground are the fit things which ought to be supplied to the *sala*. Now, Sir, it may be that it is part of his duty. In Bengal, we know, formerly it was the part of our duty as Zamindars to supply rations for the officers. It is still the practice and, in fact, there are Zamindars—not of my type—who would approach the District Officer with one maund of *ghee*, a dozen fowls and other things which he can hardly consume when he visits the village. Now, Sir, I do not know whether it will also be considered to be a part of the duty of a Zamindar or a part of the duty of the sub-inspector of police or, for the matter of that, the *chowkidar* with the aid of his brother officers

Mr. G. S. Dutt (Bengal: Nominated Official): The District Officers pay for everything that they take.

Mr. Amar Nath Dutt: I take it that officers of the type of Mr. Dutt do pay for everything.

Mr. G. S. Dutt: Is there anything to prove that other officers do not?

Mr. B. V. Jadhav: Do they also pay in Sind?

Mr. Amar Nath Dutt: It will not be proper to give out the names, but I may say at once that District Officers of the type of Mr. Dutt do pay for the things they purchase, and officers of the type of Mr. Dutt are not many.

Mr. G. S. Dutt: All District Officers observe the same practice.

Mr. Amar Nath Dutt: I do not know that, or it may be that they have no knowledge of what is done by their servants who have got to be pleased before one can approach those mighty individuals. I think Mr. Dutt himself may have some knowledge of these things or may have heard about them at least.

Mr. G. S. Dutt: I have already stated that I have not heard of any such things in any district.

Mr. Amar Nath Dutt: Then things have improved only in such Districts as were fortunate enough in having my Honourable friend as their District Officer and I would welcome him to my own District not to the detriment of his promotion, but as a Commissioner of my Division.

Sir, two gentlemen have spoken in support of my Honourable friend's amendment, one of them held the high office of a Minister under the Government of Bombay and the other was also a very high officer in an Indian State. Both these gentlemen cannot be accused of any anti-Government attitude, for they are absolutely loyal people. They have cited instances showing how this clause will work to the detriment of the true interests of the Government as well as of the public. With their experience at their back and having regard to the instances quoted by them, I think none but the perverse will say that this clause ought to be on the Statute-book of the country. Then, again, Sir, the labour has no representative in this House. The Government, in their wisdom, nominate a gentleman to represent labour, but unfortunately send him away whenever his services may be needed for some other business. In his absence, I congratulate my friend from Bombay for having taken up the cause of labour and I follow in his footsteps and say that this clause, if enacted, will put an end to all the possible redress of grievances by the one weapon that labour has in its hands, namely, the strikes. That being so, and if the Government really want that all the manifold grievances of labour should be redressed and that every opportunity should be given to the labour and the labour leaders for ventilating their grievances, I beg to submit that Government ought not to introduce at least the Explanation clause. With these words, Sir, I beg to oppose the insertion of clause 3 in the Bill and support the amendment of my Honourable friend, Mr. S. C. Mitra.

Mr. S. G. Jog (Berar Representative): Sir, I am glad to find that our old and esteemed friend, Raja Bahadur Krishnamachariar, has come to the House after his last serious illness. I used to see him on this side of the House very near me and often times I had to follow him in his remarks. Today I find that he has changed sides and has gone to the other end and I do not know whether it is the right end or the wrong end. I had thought that probably the change of seat would bring about a change in his angle of vision also. I am glad to find that the old experienced man is the same as while he was sitting here.

An Honourable Member: Why is he sitting there?

Mr. S. G. Jog: Whether he is on these Benches or on those Benches, it matters very little. He carries his own views with him and seats make no change on him. A man of ripe experience, and a keen observer, as remarked by my Honourable friend, Mr. Amar Nath Dutt, has thought of entering public life; he first entered the legal profession and, in his retiring days has come back to public service by entering the Legislature. He has got wide experience, both practical and judicial, and he has in strong and unmistakeable terms said that the language of the clause is so vague that it is impossible to work it. My Honourable friend, Mr. Jadhav, also has condemned this clause as unworkable in practice. In this emergency legislation, I find vagueness of language, confusion of ideas, false notions of putting restraint and restrictions on liberty, and creating false alarm of imaginary grievances, these are the dominant features of this

[Mr. S. G. Jog.]

emergency legislation. The Government Benches probably think that in such an emergency Bill, accuracy of language, accuracy of thought and other propriety need not at all be considered. As it is an emergency measure, even the common meanings of these words also are brushed aside and the Government put in words they like, however vague in meaning they may be. Emergency legislation is not prepared to obey or respect even these ordinary restrictions of language, etc. The wrong which the Government seek to remedy probably will, in the end, prove that the remedy is more dangerous than the wrong itself. (Hear, hear.) The real difficulty is that those who sit in this House, I mean the occupants of the Treasury Benches—most of them, I am sorry to say, are not concerned or connected with the realities of life in the mufassil.

An Honourable Member: Question.

Mr. S. G. Jog: They all sit here in this Imperial City making laws and, at the time of making laws, they do not bestow any attention as to how far these laws will be workable in the villages and other places. They do not correctly judge and gauge what sorts of factions there are in these villages and what sort of so-called public servants there are in these villages? What is their calibre? What is their education? From an I.C.S. of 30 years' standing down to the latest recruit of a *chowkidar* are included in this definition of public servants. What is their education and what is the status of these small officials? They have always got their own grievances. At times they want to take vengeance against other people in the same locality and it is very likely that in many cases, instead of doing good to the people, they will take advantage of measures like the present legislation to wreak vengeance against their own village folk. Probably this aspect of the case has not been brought to the forefront. Government have got only one idea, that is to put down the civil disobedience movement and they think that all possible safeguards must be given to the officers employed by Government, whatever may be the consequences. Government have not bestowed any thought as to how far the provisions of this clause are workable in actual practice and what will be the effects of such a clause.

The theory of legislation is that when we frame laws, we must see that they are properly administered. If the language of a clause is so vague, that while administering the law, it is very difficult to construe the language, then, in many cases, it will lead to injustice and more than injustice. This is one aspect of the case. The clause, as it is, is defective, and it has not made any provision for possible contingencies.

When this clause was under discussion in the Select Committee, I pointed out that there was no provision in the clause to safeguard the interests of the several members of the so-called trade unions which are being established all over India. When the matter was under discussion, I pointedly brought to the attention of the Honourable the Home Member, as well as the Law Member, and a sort of assurance was given that whatever may be the language of the clause, it does not cover the cases I referred to. I mean the members of the trade unions have every right to form associations and they have every right to place their grievances before the highest official and they have every right to call a member of

the union to go on strike and they have every right to ask him that, on a particular day, he should go on strike and thus fail to do his duty to the railway department or whatever the department be in which he is employed and to which the union might belong. It is perfectly legitimate that that right should be given to these unions. But the clause, as it stands, is capable of being misunderstood as to whether these unions come under the provisions of the clause. A layman will be perfectly justified in having such a sort of misunderstanding. You know, Sir, that my esteemed Leader, Sir Hari Singh Gour, whose knowledge of law is unquestionable, not only on the floor of the House, but also throughout the world, has also expressed the view that the clause is defective in that it has not made any provision for these strikes on the part of members of trade unions. It is because of this view that I am rising today and insisting upon Government that in case the clause is decided to be retained in the Bill, there should be a provision like the one I have suggested, so that there should be no misunderstanding. I should like to draw the attention of the House to the fact that such a provision does exist in other similar Acts, such as section 4 of the Police (Incitement to Disaffection) Act, Act XXII of 1922. In that Act, which is more drastic and which, according to the Government idea, is more dangerous and harmful, even there the provision exists, "saving of acts done by police associations and other persons for certain purposes". Section 4 of that Act reads:

"Nothing shall be deemed to be an offence under this Act which is done in good faith:

- (a) for the purpose of promoting the welfare or interests of any member of a police force by inducing him to withhold his services in any manner authorised by law; or
- (b) by or on behalf of any association formed for the purpose of furthering the interests of members of a police force as such, where the association has been authorised or recognised by the Government and the act done is done under any rules or articles of the association which have been approved by the Government."

This is the provision which has been incorporated even in the Act which is styled the Police (Incitement to Disaffection) Act.

As it appears from the newspapers, we are now faced with a general strike on the railways, and I think some such explanation is necessary for the clause either by way of explanation or in any other way that the Government draftsmen may wish to incorporate in this law. I think if the clause is allowed to stand as it is, it will probably lead to more abuse than use and I still stick to my opinion that the clause be better deleted. I support the amendment of my Honourable friend, Mr. Mitra.

Sardar Sant Singh (West Punjab: Sikh): Sir, yesterday the Honourable the Home Member, when advocating the retention of clause 2 in the Bill, said that in order to maintain the prestige of the services this provision was necessary. Here is another clause which does not deal with prospective public servants, but the public servants who are actually enjoying the confidence of Government. The introduction of this clause goes to prove that the administration has come to such a state that Government cannot repose any confidence even in their own public servants. If the prestige of public servants is to be kept high, it is but fair to them that this clause should be deleted. After all, if a public servant cannot be trusted to do his duty, simply because other persons come forward and induce him or attempt to induce him not to do his duty, then public

[Sardar Sant Singh.]

services do not carry that credit which Government say they ought to carry in the eyes of the people. They are not punishing any overt act of obstruction or deterring them from doing their duty; they are punishing mere inducement not to do their duty. A public servant is not worth his salt and should not be kept in his job for one minute if he cannot be trusted to look after his own self and see where his interest lies, whether he should be loyal to his service or otherwise. Such a provision in the Bill shows the weakness of the Government and not the strength of the administration.

Then, with regard to the policy underlying this clause, it is too general and too vague for administration by any Court of law. First of all, I will take the Explanation which defines a public servant. We know that section 21 of the Indian Penal Code defines what public servants are. There are 11 clauses to that section and 8 Explanations. It is made as comprehensive as legal ingenuity could make it. Besides those 11 clauses and 8 Explanations, we find a general clause which brings in every sort of individual who holds any responsible office under the Crown. We know also that besides this definition embodied in section 21 of the Indian Penal Code, there are certain other local Acts in which their servants are given the status of public servants. Even this definition at the time was objected to. We find the following in Sir Hari Singh Gour's "Penal Law of India", paragraph 162:

"The too comprehensive nature of the description of 'public servant' was objected to at the time of the draft, but the Indian Law Commissioners defended it, adding: 'Supposing the several descriptions he (*Mr Norton*) specifies to be as comprehensive as he takes them to be, yet it does not appear to us that they are faulty in this respect, with reference to the provisions in the two Chapters relating to public servants in the application of which recourse will be had to them. We think they will be found sufficiently distinct and definite for the purpose they are to serve. We have no apprehension that there will be any difficulty in determining who are positively excluded as not falling under any of the descriptions in clause 14.'"

So even at that time this definition of "public servant" was objected to. Today we find that not only is section 21 followed, but in the Explanation it is said:

"For the purposes of this section, a public servant denotes a public servant as defined in section 21 of the Indian Penal Code, a servant of a local authority or railway administration, a village chowkidar, and an employee of a public utility service as defined in section 2 of the Trade Disputes Act, 1920."

Now, in the report of the Select Committee on this clause it is said:

"In re-drafting the Explanation we have aimed at achieving definiteness by an exhaustive enumeration of the persons to be deemed public servants for the purposes of the clause."

I put it to Honourable Members whether there is any definiteness in this definition. The whole crowd of public servants is included. The village chowkidar, probably a railway pointsman or anybody who has anything to do with the services is included in this definition. Why add the word "public"? Say "a servant of the Crown in any capacity whatsoever is included within this definition". In that case one difficulty felt by the Magistrates will be removed and they would not be required to go into details as to what is the difference between a public servant and an ordinary servant employed in any department of the State. There is no definiteness there. We find that in interpreting section 21 of the Indian Penal Code, even

the High Courts have found it difficult in some cases to find what a public servant is. It depends on whether their duties fall within the categories mentioned in section 21, but here the public are asked to respect or to keep themselves away from the touch of a man who may call himself a public servant. It is not for an ordinary man to tell whether a particular individual within the service of the State is a public servant or not, when it is very difficult even for lawyers to decide it. Hence my submission is that in this definition attempt has been made to rope in all the servants of the State and the question will be, whether this will be found workable in actual practice.

Another point is that the punishment is directed against inducing a public servant to fail in his duty. The analogous sections in the Penal Code are section 353, and its aggravated forms, sections 332 and 333, etc. Therein certain acts of assault on public servants are made punishable, but what are the qualifications laid down in those sections? You will be pleased to find that the framers of the Code were very careful in qualifying the duties.

The section reads:

"Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done by such person in the lawful discharge of his duty as such public servant, etc."

So many qualifications have been laid down and, even with all these qualifications, we find a good deal of conflict of authority in the various High Courts whether a particular duty in execution of which the public servant was assaulted was the lawful discharge of his duty or whether it fell within the purview of duty or not. Some High Courts have held that a particular act of the public servant falls within his duties, and other High Courts have held that it does not. Then the question of good faith and acting under the colour of office formed the subject of many authorities. But here we are faced with a bald section and the clause reads:

"induces or attempts to induce any public servant to fail in his duty as such servant."

There is a significant omission of the word "public" after "as such". May I ask, who is going to define the "duty" of such public servant? The term is beautifully vague. When penal enactments are couched in vague language, the Magistrates find it difficult to interpret them. In such cases what happens in the original Courts is that, instead of liberally interpreting the section in favour of the accused, the Magistrates generally say "let him be convicted, and we will have a ruling of the High Court on this point." The poor man has to suffer so that the public service may get an authority from the High Court as to what the meaning of a particular phrase is. Here everything is left undefined and vague.

Under the circumstances, my submission is that to be a party to such a law would be an act which will be inexcusable for any Member of this House. Lastly what I want to say is that such an enactment does not restore the confidence of the public in the administration. I tried my level best yesterday to emphasise this aspect of the case, that the administration

[Sardar Sant Singh.]

stood more in need of winning the confidence of the public than of losing it. Already the administration has lost a good deal of confidence. If you want to run this machinery of Government very smoothly, you ought to run it with some broadmindedness, with more statesmanship and not with the narrowmindedness of punishing anybody who wants to stand in the way of a public servant. Practically you are giving a blank cheque to the public service to commit acts of highhandedness to which you cannot call attention either in the press or on the platform. Why are you playing into the hands of the civil disobedience people? Practically you are dancing to their tune. The Government are dancing to the tune of those who are engaged in the civil disobedience movement. Therefore, I will appeal to them to be reasonable, to be statesmen, to be broadminded before they enact such a law as this. I support the amendment.

Mr. S. C. Sen (Bengal National Chamber of Commerce: Indian Commerce): Sir, I support the amendment. My objection to this clause is that you cannot define what duty is. Secondly, if it is properly and strictly operated on, it would lead to absurdities. Nobody would be safe in this House if this clause is enacted into law, if I may say so. We commit offences against this clause every day of our life. Take the case of a servant of a local authority or a village *chowkidar*: local authority means a municipality. Under the municipal law, rates and taxes are payable on a particular day; no demand is necessary. A man comes to collect the taxes and we always say, come on such and such a day—there may be special days when we pay our taxes. But if we ask him to go away and come again, are we dissuading that man from performing his duties? He is not bound to come again. In that case, we should be liable to conviction under this clause. Moreover, this may be a trivial deviation in the particular case which I have stated. But, all the same, that will bring me within the purview of this clause. It makes no difference here between trivial failure of duty or gross failure of duty. By the addition of the Explanation you are enlarging the number of persons who are to be considered as public servants. The Bill has made the provisions of this clause cruel and incapable of execution without causing great hardship in certain cases. I was trying to find out the genesis of this clause and I found that this clause originated at the time of the war in the rules provided under the Defence of India Act. There, although it was a very great trouble at that time, the Government absolutely wanted to be secure that public utility companies and railways should be protected and that they should work properly; still the rules limited the operation only to public servants or rather the servants of His Majesty. I shall read that clause:

"No person shall induce or attempt to induce any person in the service of His Majesty to disregard or fail in his duty as such servant."

Since then we had the non-co-operation movement in 1920; that was a time when a similar clause ought to have been put in the Statute-book, but nothing was done. The non-co-operation movement passed off without any such clause and I ask now, what is the necessity of such a clause and such a comprehensive definition of public servant. I would ask the Honourable the Home Member to consider this matter and to delete from the operation of this clause, if he wants to retain this clause, such of the public servants mentioned above, namely, the servants of the local

authority or village *chowkidars*. Moreover, as I said before, it is impossible for any Court to define exactly what the duties are, where the failure comes in and whether it is possible for any person to know exactly the details of the duty. It is a penal Statute that you are making and, if you leave anything vague, it would be disastrous. With these words, I support the motion.

Major Nawab Ahmad Nawas Khan: I oppose this motion as I think that clause 8 is the most important and necessary clause of this Bill. If we are to succeed in keeping down the civil disobedience movement, we must retain this clause. Without this clause, the Bill will be very ineffective.

Some Honourable Members said that these cases are imaginary ones, and that there have been no cases at all. It is all wrong. In Peshawar, the Red Shirts set up a parallel Government disobeying the orders of the Civil Courts, the Criminal Courts and the Revenue Courts. The Hindus went to these Courts with decrees and they were stopped. Policemen were stopped from performing their duties, railway people were dissuaded from discharging their duties, and, consequently, the Government were compelled to call for the aid of the Military. The authorities were forced to employ the Military, and, in some cases, the Military were compelled to open fire under the orders of the Magistrates when there was very much trouble and turmoil. If Honourable Members do not believe what I say, I would request them to read the statements issued from time to time by the Government in that Province and also the newspapers of those days. Unfortunately, the Chief Commissioner of the Province is not present here, otherwise he would have confirmed all that I say. There is one gentleman from that Province here, I mean the Marshal who sits behind the Chair, and he knows all these things.

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions: Muhammadan Rural): Bring him into the witness box.

Sir Abdulla-al-Mamun Suhrawardy (Burdwan and Presidency Divisions: Muhammadan Rural): Present him with a mace.

Major Nawab Ahmad Nawas Khan: Sir, this gentleman has been rendering a lot of good service to the people in my Province, because people have been very much misled by the Congress propaganda. In so doing, these propagandists had not the political aims or objects in view, but they wanted to create trouble by misleading the people, because the Congress gives money to these people. They are all paid. Sir, on one or two occasions, when some of these Congress workers had a plain talk with some of the high officials, they plainly said: "Sir, those who are paid by the Government are the servants of Government, and they discharge whatever duties the Government ask them to do; but we are paid by the Congress and we will do whatever we are asked to do by the Congress as long as the money comes from the Congress. We are all poor and we must take some sort of service. Give us money and we will give up that propaganda." But as we all know, Sir, it is impossible for the Government to keep every soul happy and contented, nor can they offer service to every man in India.

Sardar Sant Singh: May I rise to a point of order, Sir? May I know the relevancy of my friend's arguments?

Major Nawab Ahmad Nawaz Khan: Yes, you wanted to know how many cases there were, and I am trying to give you the number of cases.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member is quite in order.

Major Nawab Ahmad Nawaz Khan: You put a certain question, and when a proper answer is given to your question, you say it is irrelevant. (Applause from the Official Benches.) Sir, this measure is not intended to apply to gentlemen. It is not directed against the peaceful public. (Laughter.) This measure, as has been clearly explained by the Honourable the Law Member and also by the Honourable the Home Member, is directed against mischief-makers to stop them from making mischief. Those Members who favour mischief-makers will naturally support them by opposing this measure, but those who really want a peaceful life in this country, why should they be afraid of this clause? This is another wrong logic which is sometimes used by my friends here. They say that if a man does not do his duty properly, he will go before a Magistrate and say that such and such gentleman stopped him from doing his duty and the Magistrate would be so rude that he would at once issue a warrant and send the gentleman to jail. Do the Honourable Members really believe that Magistrates as a class are not wiser than those who adorn the Opposite Benches? (Laughter.) Do Honourable Members believe that they are the only people in the world who are gifted with honest motives, that they are the only wisest men, the most prudent men on the face of this earth? If the Magistrates are dishonest, as they have been represented to be, then some of these Members must also be dishonest, because they are their own brethren. They hail from the same class or stock. Sir, I may tell you that the Magistrates know the people in their own Districts very well.

Sir Muhammad Yakub: Question

Major Nawab Ahmad Nawaz Khan: The Magistrates know who are good and who are bad people in their own Districts, just as your noble self knows very well all Honourable Members and their mentality. (Laughter.) No policeman or no police report can mislead you. The Magistrates know very well when policemen come and tell them that they have been stopped from doing their duty. Magistrates generally know who are the propagandists, and they know who really are the mischief-makers.

Another thing is this. In every District the number of pleaders is very large. They are in such great abundance, and they are prepared for every petty case to go to, and plead in, a Court. In my part of the country—I do not know much about other provinces,—but in my part of the country a pleader takes a case even for one rupee (Laughter), and the duty of that pleader is to advise his client and to tell him how to tell lies. (Loud Laughter.) Is it possible, Sir, that in the presence of these pleaders the Magistrates can do any injustice, because, if the Magistrate is dishonest, the pleader will be doubly dishonest. (Laughter.) He at once tells the Magistrate: "Sir, this man is my enemy, there are party feelings and there are so many cliques." Therefore, as long as we have such nice pleaders in this country, it is quite impossible that this clause

will be abused in any way by the Magistrates or by the police. One of the Honourable Members once said,—I do not remember who it was,—that it was the duty of the Opposition to oppose the Government, whether they are right or wrong. Well, if that mentality prevails, God should help this House. (Laughter.)

Sardar Sant Singh: We agree here at least on this point.

Major Nawab Ahmad Nawaz Khan: If we have come here with an open mind to do everything to restrict the activities of mischief-makers, then we have nothing to be afraid of. But if we have come here with an eye to securing future votes from our constituencies and to please the public that we have done so much in the House, so that we may be elected again, then these tactics will be all right; but we should have also another idea in mind, and that is really to protect the country and the peaceful people. We here have assembled really to govern the country and to acquire the art of Government, and not to oppose any and every measure that is brought forward by Government

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Will the Honourable Member now come to the specific provisions of clause 3?

Major Nawab Ahmad Nawaz Khan: Sir, I am trying to repudiate those objections which have been raised against this clause 3. I do not wish to detain the House for very long, because I know no amount of arguments will convince the Opposition; it is the vote that convinces them. (Laughter.) Therefore, Sir, I oppose the amendment and support that clause 3 should remain as part of this Bill. (Applause from the Official Benches.)

The Honourable Mr. H. G. Haig (Home Member): Sir, we have listened to a great number of speeches from the opposite Benches, and I was struck by one common factor which I seemed to detect in them and that was a conspiracy of silence in regard to the conditions and circumstances which have made this clause necessary,—a silence which was broken only by my Honourable friend, Mr. Jadhav. It was started by Mr. Mitra who, with an air of engaging innocence, asked me to prove that there ever had been any interference with public servants. Well, Sir, even in a Court of law I think there are certain matters of common knowledge which it is considered unnecessary to prove, and I should have supposed that in this House it was unnecessary to prove a matter which every single Member of the House must know very well, and that is, that the object of the Congress in the civil disobedience movement has been to paralyse the Government, that one of the most obvious methods of attack on the Government has been to interfere with the loyalty and the good behaviour of public servants, and that in fact at various times there have been intensive efforts to induce public servants to fail in their duty. My Honourable friend, Mr. Jadhav, who hails from Bombay, gave the obvious instance, with which all Honourable Members must be well acquainted, of what happened in Guzerat in 1930 when in fact a very large number of public servants, particularly village officers, were induced to fail in their duty. Now, Sir, that is a condition which Government obviously cannot accept. My Honourable friend, Mr. Jadhav, says that at the present moment the efforts of the Congress are not directed to that particular object. He suggests that those who were inclined to fail in their duty in the past have now learnt their lesson and they are not likely

[Mr. H. G. Haig.]

to do so again. Sir, that assurance is not sufficient. Why have the Congress desisted from their efforts? Why have those public servants whose loyalty had been affected, now changed their minds? Very largely because of the existence of these powers. It is necessary for the Government to safeguard their position. If this clause were ~~not~~ ^{not} enacted, there would be nothing to prevent the Congress starting up again, at any moment, this insidious and dangerous ~~attack on the loyalty of public servants~~.

Mr. B. V. Jadhav: But they know by bitter experience the effect of this very pernicious propaganda.

The Honourable Mr. H. G. Haig: I am very glad to hear that that is so in Guzerat, but it is a question of atmosphere and propaganda, and if propaganda is allowed to continue unchecked, the atmosphere changes. Now, Sir, we have had an attack on the Government from a novel direction and on somewhat novel lines from my Honourable friend, Raja Bahadur Krishnamachariar. He has signalled the transfer of his seat by a display of fireworks which, I am sure, was much appreciated by the House. (An Honourable Member: "Send him back here.") As he was speaking, it occurred to me that the Raja Bahadur came from a very tranquil province and that in fact he has not been attending the debates on this Bill. Consequently he appeared to be ignorant of the fact that the civil disobedience movement was in progress; at any rate, he made not the smallest reference to it in the course of his long and ingenious arguments. He seemed to suppose that this clause was intended to give a certain protection to public servants, to strengthen their position, to make them better able to practise oppression on the people or demand illegal gratifications. If I may venture to say so, he had failed to observe that the principle of the clause is to protect Government rather than the public servant. It is the Government which cannot permit these inducements to be offered to their servants. Actually a great part of the argument that the Raja Bahadur directed against this clause could, I think, equally have been directed against the existing provisions of the law, as for instance, section 186 of the Indian Penal Code, which says: "Whoever voluntarily obstructs a public servant in the discharge of his duties . . ." Those were the kind of cases really which he seemed to have in mind and not those which the Government have in mind in proposing this clause, namely, an organised campaign to induce public servants to abandon their duties. Another matter may have escaped the notice of the Raja Bahadur in the remote tranquillity of Madras, and that is, that these powers have been in existence for nearly a year. It would have been more effective if, instead of giving us half a dozen highly interesting but purely imaginative instances of what might happen if we passed this clause, he had given us one single instance of an actual occurrence.

The debate on this particular amendment has ranged over a very wide field. It has covered by anticipation a great many of the specific amendments that are down on the paper, but I think it would be more convenient if we deal with questions of whether labour is in any way handicapped by this clause and various other points of that kind when the specific amendments are reached. I, therefore, do not propose to go into all those points now, but I would merely state that on general grounds I oppose this amendment. (Cheers.)

Mr. President: The question is that clause 8 of the Bill be omitted.

The Assembly divided:

AYES—33.

Abdul Matin Chaudhury, Mr.
Abdur Rahim, Sir.
Bagla, Lala Rameshwar Prasad.
Chandi, Mal Gola, Bhagat.
Dutt, Mr. Amar Nath.
Grew, Sir Hari Singh.
Iera, Chetdhri.
Jadhav, Mr. B. V.
Jha, Pandit Ram Krishna.
Jog, Mr. S. G.
Krishnamachariar, Raja Bahadur G.
Lahiri Chaudhury, Mr. D. K.
Lalchand Navalrai, Mr. M.
Maswood Ahmad, Mr. M.
Misra, Mr. B. N.
Mitra, Mr. S. C.
Murtuza Sahab Bahadur, Maulvi
Sayyid.

Pandian, Mr. B. Rajaram.
Parma Nand, Bhai.
Phookun, Mr. T. R.
Puri, Mr. Goswami M. R.
Ranga Iyer, Mr. C. S.
Reddi, Mr. P. G.
Reddi, Mr. T. N. Ramakrishna.
Sant Singh, Sardar.
Sarda, Diwan Bahadur Harbilas.
Sen, Mr. S. C.
Sen, Pandit Satyendra Nath.
Singh, Mr. Gaya Prasad.
Sitaramaraju, Mr. B.
Thampian, Mr. K. P.
Uppi Sahab Bahadur, Mr.
Ziauddin Ahmad, Dr.

NOES—61.

Abdul Hye, Khan Bahadur Abul
Hasnat Muhammad.
Acott, Mr. A. S. V.
Ahmad Nawaz Khan, Major Nawab.
Allah Baksh Khan Tiwana, Khan
Bahadur Malik.
Amir Hussain, Khan Bahadur Saiyid.
Anklesaria, Mr. N. N.
Anwar-ul-Azim, Mr. Muhammad.
Bajpai, Mr. G. S.
Bhore, The Honourable Sir Joseph.
Bower, Mr. E. H. M.
Dalal, Dr. R. D.
DeSouza, Dr. F. X.
Dudhoria, Mr. Nabakumar Sing.
Dunn, Mr. C. W.
Dutt, Mr. G. S.
Fazal Haq Piracha, Shaikh.
Fox, Mr. H. B.
Graham, Sir Lancelot.
Greenfield, Mr. H. C.
Gwynne, Mr. C. W.
Haig, The Honourable Mr. H. G.
Henlett, Mr. J.
Hoesack, Mr. W. B.
Hudson, Sir Leslie.
Ishwarsingji, Nawab Naharsingji.
Ismail Ali Khan, Kunwar Hajee.
James, Mr. F. E.
Jawahar Singh, Sardar Bahadur
Sardar.
Jal Chandi, Hony. Captain Rao
Bahadur Chaudhri.
Mackenzie, Mr. R. T. H.
Macqueen, Mr. P.

Meek, Dr. D. B.
Metcalfe, Mr. H. A. F.
Mitter, The Honourable Sir
Brojendra.
Moore, Mr. Arthur.
Morgan, Mr. G. M. D. 2 M.
Mukherjee, Rai Bahadur S. C.
Nayudu, Rao Bahadur B. V. Sri Hari
Rao.
Nihal Singh, Sardar.
Noyce, The Honourable Sir Frank.
Pandit, Rao Bahadur S. R.
Parsons, Sir Alan.
Rafiuddin Ahmad, Khan Bahadur
Maulvi.
Raghubir Singh, Kunwar.
Rajah, Rao Bahadur M. C.
Rastogi, Mr. Badri Lal.
Rau, Mr. P. R.
Ryan, Mr. T.
Sarma, Mr. R. S.
Schuster, The Honourable Sir
George.
Scott, Mr. J. Ramsay.
Sher Muhammad Khan Gakhar,
Captain.
Singh, Kumar Gupteshwar Prasad.
Singh, Mr. Pradyumna Prasad.
Smith, Mr. R.
Sorley, Mr. H. T.
Suhrawardy, Sir Abdulla al-Mamun.
Tottenham, Mr. G. R. F.
Yakub, Sir Muhammad.
Yamin, Khan, Mr. Muhammad.
Zulfiqar Ali Khan, Sir.

The motion was negatived.

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

The Assembly re-assembled after Lunch at Twenty Minutes Past Two of the Clock, Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

COMMITTEE ON PETITIONS.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order. Under Standing Order 80(1) of the Legislative Assembly Standing Orders, I have to appoint a Committee on Petitions. I have, therefore, to announce that the following Honourable Members will form the Committee:

Mr. G. Morgan,
Mr. C. S. Ranga Iyer,
Sir Abdulla Sghrawardy, and
Mr. B. Sitaramaraju.

According to the provisions of the Standing Orders, the Deputy President, Mr. R. K. Shanmukham Chetty, will be the Chairman of the Committee.

THE CRIMINAL LAW AMENDMENT BILL—contd.

Mr. S. O. Mitra: Sir, I move:

"That in clause 3 of the Bill, the words 'or attempts to induce' be omitted."

Sir, the House has not accepted the previous motion for deletion of the whole clause, but yet I hope that the Government might see their way to accept some of our minor suggestions and, with that hope, I move this amendment. Sir, speaker after speaker has made it clear that under this beautifully vague phraseology about the failure of duty of these thousands of public servants, the consequences of making people responsible, even where they merely attempt without any success, and of bringing them under the ambit of this clause will be very serious. Where an inducement succeeds, one can attempt to make a defence against it, but in the case where the allegation is that there was an attempt, I think it will be almost next to impossible for the accused to prove that he has not even "attempted". Where there is a failure of duty on any body's part, as has been pointed out by different speakers, the failure itself being a patent fact may be proved, but any "attempt" even at a failure of duty by a public servant in the discharge of his duty, is very vague. So these are the grounds on which I think that the words "or attempts to induce" should be omitted.

Sir, as I was coming to the House, a friend was asking me what was the special significance of pressing these amendments before the House when there was hardly any chance of their being accepted either by the Government or by the House. But being in the Opposition, I think it is our constitutional duty to press our views before the House and to put it on public record as to how we wanted to improve the Bill and what apprehensions were in our mind and what abuses we were contemplating, because a time will come to prove the justification of our apprehensions. Theoretically speaking, I think in all countries there are well-defined parties—as for instance, in the British Parliament or in the American

Senate, where one of the Parties at the General Election has got a decided majority, as happens to be the case in England, the Labour Party having only 60 or 65 votes would have ceased to function from the day of the General Election, or, as it has happened very recently in America, the Democrats have come, and they have a majority in both Houses. Now, according to my friend's view of things, the Republicans should cease to function. The Labour Party in England makes itself felt and the Republicans in America will not cease to express their views. I think, therefore, it is our duty to press before the House all reasonable amendments that we think should be accepted. Sir, it has been said more than once from this side that the nominated Members were merely voting at the dictation of the Government, but I think they can at any rate take the credit to themselves that they are always present in large numbers, while in a House of 100 elected Members—even leaving out the 10 or 11 European Members, we have about 90 elected Members—there should be every chance of public opinion having the strength to carry all these amendments as the country demands. But, unfortunately, I find that though the Congress in its wisdom has ceased to co-operate with the Government, yet many of the gentlemen who thus have got themselves elected fail to discharge their duties by putting in their attendance while many of them are actually present in the city. It cannot be said against the few who are here that notwithstanding heavy odds, they, from their sense of duty, did not try to do their best to improve such a drastic and obnoxious pieces of legislation. Sir, with these words. I move my amendment.

Mr. Lalchand Navarai (Sind: Non-Muhammadan Rural): Sir, I support this amendment. I was really surprised to hear the Honourable the Home Member a while ago saying for the first time that what this clause aims at is the prevention of an organised campaign in the direction of inducing public servants, to fail in their duty. I do take that that is the real gist which he has given us now and I accept the assurance, but may I ask, whether the fact that it will apply only to organised campaigns in the direction of tampering with public servants has been clearly brought out in the clause itself. The clause, as it stands, reads:

"Whoever induces or attempts to induce any public servant to . . . fail in his duty as such servant."

It is because the clause is so vague, so indefinite and can be interpreted in any manner especially as it has to be interpreted in the first instance by a police officer before it goes to a Magistrate, that we move such amendments to make its meaning quite clear. Sir, I do not wish in the least to throw any discredit upon the magistracy, but I will certainly not raise them to that sky to which the Honourable Member opposite

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Surely the Honourable Member is not replying to the previous debate. The only amendment that is now before the House is that the words "or attempts to induce" be omitted.

Mr. Lalchand Navarai: I do think, Sir, that I am within my rights to say that this clause will be interpreted in a particular manner by a police officer or a Magistrate and that, therefore, all care should be taken and an amendment as this should be accepted. What I am submitting is this that various interpretations have to be put on

[Mr. Lalchand Navalrai.]
 this clause. Therefore, we should not leave it as wide as it is. It must be curtailed and the amendment moved by my Honourable friend is a very sensible one and I support it. Just as the Honourable Member said that the object of this clause is a particular one, may I not say that the Honourable Member himself, as well as the Law Member, fully know what are the stages leading to an attempt. As this clause does not define "attempt", there are difficulties which will be experienced by the police officer who sends the accused before the Magistrate. Now, there are several moves according to law in an "attempt". There is, first of all, an intention to commit an offence: then the preparation to commit an offence: and there after is the penultimate act, and in many cases it is only then that an attempt is complete. May I ask the Honourable the Home Member, whether it is not likely that this word "attempt" may be taken to apply to a mere preparation or it may be taken to apply to a mere statement or a word or an advice? Suppose a man has got only an intention to induce, that that will certainly not be an offence, but if he makes preparation, so far as to tell a public servant not to go to his office on a particular day for two hours, it may be turned into an attempt which it should not be. Therefore, I submit, that unless and until an attempt is defined and it shows to what circumstances it will apply, I am afraid, it is very indefinite and should be excluded from this clause. With these words, I support the amendment.

Mr. B. V. Jadhav: Sir, I rise to support this amendment. The clause, as it stands, has two parts—*whoever induces* any public servant to fail in his duty or *whoever attempts to induce* any public servant to fail in his duty. I have now nothing to say about the first portion of this clause and I shall confine my remarks to the second item only. I think Government are taking too much power in their hands now to stop any political propaganda. When a public servant is induced to give up the service or to fail in his duty, to that extent Government administration is disorganised. But this disorganisation takes place only when the attempt succeeds. If the attempt is abortive and the Government servant does not give up the service, then Government are not at all prejudiced. I do not see any reason why such an attempt should be made penal.

This act has been made penal on account of the extraordinary circumstances brought about by the present tension. The framers of the Indian Penal Code did not contemplate this action as an offence. This is a new offence and, therefore, there is no necessity for providing a punishment for the attempt. That there will be a great abuse of this clause, is the fear on this side of the House. Sir, when a person is charged with an attempt to induce a public servant to fail in his duty, the principal witness will be the public servant himself and his mere assertion that an attempt was made by the accused to induce him will be the only material evidence that a Court will be presented with, when the Court will have to decide whether the attempt was made or not. If the attempt is made in a public meeting and if the public servant is there in the audience, it is perhaps possible to bring further evidence to prove that the attempt was made in a lecture or a harangue or a speech. But if the public servant comes forward and accuses his adversary or a person, with whom he is not on good terms, that the particular individual attempted to induce him to deviate from his duty, there will be no

other evidence and, in this way, the Magistrate will be placed in a very delicate position as to whether to believe A or B, the complainant or the accused; and as the complainant in that case will be a public servant, perhaps his words may carry more weight and a poor man may be convicted. As I have pointed out, Government are not at all prejudiced when the attempt is not successful and, therefore, Government need not take the precaution of even nipping in the bud any such attempt. If the attempt is an organised one, and if it threatens Government service, then, of course, Government will be right to take powers and to take measures to suppress that movement. But when, as a matter of fact, the attempt is so very weak that it is not likely to succeed and it does not succeed, I think it is not justifiable on the part of the Government to ask for such extraordinary powers. I, therefore, urge that Government in their wisdom will see their way to accept this amendment.

Mr. D. K. Lahiri Chaudhury (Bengal Landholders): Sir, I rise to support the amendment moved by my friend, Mr. Mitra, for the very simple reason that this particular phrase in this clause will cause so much trouble and ambiguity that it will become very oppressive to the people. We know, Sir, how the law is interpreted by the lawyers and we also know how the Courts of justice deliver their judgments and we also know how the executive use their powers and, therefore, it is necessary that this phrase "or attempts to induce" should be omitted from clause 3. As has been very rightly explained by my Honourable friend, Mr. Jadhav, it will give rise to many complications. Under these circumstances, although the Government are in the absolute majority, they will come to an agreement with us which will be very reasonable and justified.

Sir, the phrase is a very vague one and I will place before the House a concrete case. Sir, during the last few years I have been in close touch with the Railway Mail Service Postal Union. I do not know whether luckily or unluckily I have been elected President of the Bengal Provincial Postal Union. Take, for instance, the strong rumour that the ten per cent. cut will not be restored in the case of subordinate services and that it will be restored only in the case of superior services. If, in a public meeting of postal subordinates, supposing I advise them: "It is the duty of every postal employee to resist this discrimination. You must exert your utmost and combine together and see that equality of treatment is meted out both to the subordinate services as well as to the superior services. You should not abide by the orders of the executive. You must stand on your own legs". Supposing I give such advice, then I will be liable for prosecution in a Court of law. So, this expression "attempts to induce" is liable to be applied in the case that I have just cited. It can bring any sort of people under its clutches, even people, who may be speaking in good faith, will come under this clause and will be penalised. Under these circumstances, I request the Honourable the Home Member, though he is in absolute majority so far as the votes of the House are concerned, I request him to support the amendment.

The Honourable Sir Brojendra Mitter (Law Member): Sir, I oppose the amendment. It is an unreasonable amendment and I shall show presently that it ignores an elementary principle of criminal jurisprudence. I should have preferred not to discuss elementary principles of Criminal Law in this House and I do wish that my Honourable and learned friend.

[Sir Brojendra Mitter.]

Sir Hari Singh Gour, would restrain his followers from raising futile points.

Sir, it has been said: "Oh! this word 'attempt' is too vague, it may include preparation and it would place the accused in a position of such difficulty that he will not be able to discharge the onus." Various legal points have been raised. Sir, I shall soon show the futility of each of those points. In the criminal jurisprudence both of England and of this country, "attempt to commit an offence" is a recognised ground of legal liability. That principle has been embodied in the Indian Penal Code, section 511.

Mr. Lalchand Navalrai: It applies to the Penal Code alone.

The Honourable Sir Brojendra Mitter: That principle has been accepted in the ordinary penal laws of this country. Section 511 runs thus:

"Whoever attempts to commit an offence punishable by this Code,....."

—then the punishment is mentioned:—

"shall, where no express provision is made in this Code for the punishment of such attempt, be punished with transportation, etc."

It shows this, that the principle that an attempt to commit an offence is a ground of legal liability is a recognised principle in the ordinary law of the land. With regard to preparation and other things, I desire, first of all, to draw the attention of the House to another elementary principle that there are ordinarily three degrees in the commission of crime. The first is known as incitement, the second is known as conspiracy, and the third is attempt. These are the three degrees in the commission of a crime. With regard to attempt, Sir James Fitz-James Stephen in his famous book on Criminal Law says this:

"An attempt to commit a crime is an act done with intent to commit that crime, and forming part of a series of acts, which would constitute its actual commission if it were not interrupted. The point at which such a series of acts begins cannot be defined; but depends upon the circumstances of each particular case. An act done with intent to commit a crime, the commission of which in the manner proposed was, in fact, impossible, is an attempt to commit that crime. The offence of attempting to commit a crime may be committed in cases in which the offender voluntarily desists from the actual commission of the crime itself."

Then, Sir, with regard to preparation, my learned friend, Mr. Lalchand Navalrai, says that the word "attempt" as used in this clause may include "preparation". I will now draw the attention of the Honourable and learned Member to a passage in the book which I cited yesterday, that is, Salmond's Jurisprudence, which is neither Simon nor the savoury fish, salmon. (Laughter.) At page 402, Salmond says this:

"To intend to commit a crime is one thing; to get ready to commit it is another; to try to commit it is a third. We may indeed say that every intentional crime involves four distinct stages, intention, preparation, attempt and completion. The first two forms are commonly innocent. An unacted intent is no more a ground of liability than is an unattended act. The will and the deed must go together. Even action in pursuance of the intent is not commonly criminal if it goes no further than the stage of preparation. I may buy a pistol with felonious purpose, and yet remain free from legal guilt. There is still *locus poenitentiae*. But the two last stages in the offence, namely attempt and completion are grounds of legal liability."

Sir, preparation is not a ground of liability under the English system of jurisprudence nor under the Indian system of jurisprudence. The apprehension in the mind of my Honourable friend, Mr. Lalchand Navalrai, is void of foundation.

Then, I take the Honourable Mr. Mitra who said that it would be impossible for the accused to prove that he did not make the attempt. He said that we were calling upon the accused to prove that he did not make the attempt. But who is calling upon the accused to prove anything? It is the duty of the prosecution to prove that the accused did make an attempt. If the prosecution succeeds in proving that, then the offence is established. If the prosecution fails to prove that, then no offence is established. The accused will not be called upon to prove the negative that he did not make the attempt.

I now come to Mr. Jadhav. He says Government are not prejudiced if the attempt is not successful. If that were a sound argument, you might as well say that attempt should not be a ground of liability at all. But we are faced with this fact that every system of criminal jurisprudence with which we are familiar makes attempt a ground of liability.

Mr. B. V. Jadhav: But this is a newly created offence and not a regular offence.

The Honourable Sir Brojendra Mitter: Then he further says that this clause is liable to abuse, because a public servant may go before a Magistrate and falsely depose that such and such a person did make an attempt to tamper with his loyalty. That danger is always present when a man is prepared to go and perjure himself in a Court of law; it is not confined to this clause only. That danger always exists when there is a possibility of perjury. Why there should be a greater possibility of perjury in connection with tampering with public servants than in connection with any other offence, I cannot imagine. So that is an absolutely futile argument.

Mr. D. K. Lahiri Chaudhury: What about my illustration?

The Honourable Sir Brojendra Mitter: I did not pay any attention to it.

Then, Sir, it is said that "attempt" is a vague term. I have shown from the books that "attempt" has a very clear legal connotation. The word has been used frequently in the Indian Penal Code and in all the systems of law with which we are familiar. There is no vagueness about that word.

Sir, I oppose.

Sardar Sant Singh: Sir, I agree with the legal exposition of the word "attempt" which has been given just now. I quite understand that an attempt has been considered to be a ground of liability in all systems of criminal jurisprudence, and I agree with this aspect of the case too that attempt by itself would be a legal ground of liability in cases where some overt act takes place in pursuance of that attempt. I quite realise the difference between preparation and attempt, that in the preparatory stage

[Sardar Sant Singh.]

no offence is committed and in an attempt everything is done by the culprit but for the interference of a third agency and the offence is not completed. I hope my Honourable friend will agree with me that it is a third agency which comes in and prevents the attempt from becoming a completed offence. Then the words in the clause are "induces or attempts to induce". What is the meaning of "induces"? Supposing he says everything that he can possibly say, that would be inducing a public servant and not attempting to induce. But if he is going to say something, and a third person stops him, that would be an attempt to induce, and it would be very difficult to distinguish between attempt and preparation at this stage. I just want to know what is implied by the term "attempts to induce". After all what is punished here is not an overt act but a mere statement. An attempt from the ordinary layman's point of view would mean that the culprit went there and probably wanted to speak to the public servant to give up his post or somehow fall in his duty. But what would be the meaning of "attempt to induce"? That is a point which ought to have been elucidated and has not been elucidated. My suggestion is that where a statement is punished, as in defamation, "attempt" is not punished, because an attempt in such cases will be meaningless. Here no overt act is committed, but a mere statement is made, and if the attempt to make that statement is made punishable, there will be difficulty in the application of this clause. Therefore, I will support this amendment, because the word "attempts" is superfluous and meaningless in this case.

Mr. Amar Nath Dutt: Sir, I congratulate the House on the very able psycho-legal exposition of the words in this clause. Sir, I was also a student of philosophy and probably sat at the feet of the same revered Professor of the Presidency College. But when I heard the Law Member, I said to myself, alas! what a difference! Had that revered Professor been alive, he would have said, have my pupils gone so far in their exposition of psychological principles? As for the legal principles, he has given an analysis from that book of which he is very fond and a book which was not in existence when he was preparing for Doctorate in Law, because had it been in existence at that time, he, as a student preparing for the Doctorate in Law, would have given us the date of the 1st edition of that book. Sir, he had also Honours in English for his B.A. and I would have been glad if he had imported a little amount of his knowledge of philology, but unfortunately he has not done so. The word "attempt" means, according to the Dictionary, "try"; but a psychologist, whether he sits at the feet of Dr. P. K. Roy or at the feet of any other Professor, forgets him and goes over to some other authority and says that there are four stages, and the authority, however revered his name may be among the officials, is certainly not remembered with gratitude in India. I mean Sir James Fitz-James Stephen. When he quotes to us the authority of a jurist like Sir James Fitz-James Stephen, the Honourable Member's predecessor in office, I would remind him that there was another predecessor of his, whose claim to remembrance by Indians is far greater, namely, Thomas Babington Macaulay, who drafted the law that my Honourable friend wants to revise. He referred to the Indian Penal Code, the handiwork of Lord Macaulay, but he forgets that Macaulay never dreamt that such things can be brought within the purview of the

Criminal Law. That being so, I submit, that all the psycho-legal arguments that have been adduced in favour of the language used fall to the ground, and we are sorry that we are unable to accept the exposition of my Honourable friend, the Law Member.

Then, Sir, the Honourable the Law Member will also excuse me if I only make a reference to a thing which inadvertently fell from his lips when he said that he did not listen to my friend, Mr. Lahiri Chaudhury. He may be a very insignificant Member of this House, he may have no position in life, but so long as he enjoys the Membership of this House, I think he is entitled to some courtesy.

The Honourable Sir Brojendra Mitter: I did not mean any discourtesy; 3 P.M. I was merely stating a fact.

Mr. Amar Nath Dutt: Thank you; of course it does not take away the sting of the thing, that he was not paying any attention when an Honourable Member was speaking. Referring to the amendment he was pleased to observe that Sir Hari Singh Gour should be asked to restrain his followers. He should have known that the gentleman who moved the amendment is not a follower of Sir Hari Singh Gour; he is no doubt a follower of another Knight, who was knighted long ago before the Honourable Member; but Sir Hari Singh has no hold upon him. I hope when a gentleman asks a Leader to do something with respect to a Member, he will inquire to which Party he belongs.

The Honourable Mr. E. G. Haig: Sir, I had not intended to speak on this amendment after the full exposition of the law given by my Honourable colleague and I must at once confess that I was not educated in the principles of law either under the revered Professor under whom my Honourable friend, Mr. Amar Nath Dutt, sat or anybody else. Consequently all that I can do is to bring my untrained intelligence to bear on this amendment. The case we have to consider is that of an attempt to induce a public servant to fail in his duty. What happens? A Congress agent goes round and either makes a speech or addresses arguments to public servants endeavouring to persuade them to abandon their duty. That is the act that we want to prevent; it matters little whether in fact that act has the desired effect or has not. It is the act itself we want to touch and that act is the attempt to induce: the very essence of the clause lies in it.

Sardar Sant Singh: What would be the inducement in that case, may I know?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in clause 3 of the Bill, the words 'or attempts to induce' be omitted."

The motion was negatived.

Mr. S. O. Mitra: Sir, I move:

"That in clause 3 of the Bill, for the words 'one year' the words 'three months' be substituted."

My short point is this: that it being a newly created offence, if the period of sentence is lessened, it may help to mitigate the rigour of the

[Mr. S. C. Mitra.]

law. That is the only point that I would like to urge before the House; and, before I sit down, I should just like to remind the Honourable the Law Member that his appeal to the Leader of the Nationalist Party will be of no avail in discouraging me not to put forward my amendments. We from Bengal were vastly surprised and were extremely sorry to notice only the other day that the great Leader of the House, a man of such standing in law, in framing a Bill only the other day as regards the fundamental and elementary powers of the High Court, it was only by your kind intervention, Sir, was made to understand what were the fundamental and elementary powers of the High Court. So he can excuse me who had given up attending the High Court for the last twelve years; but, I think, before he asks others to understand elementary principles of law, he should understand on what basis the whole law is based; he should understand that what he is framing is not opposed to such elementary principles and

Mr. President (The Honourable Sir Ibrahim Rahimtoola): I have allowed considerable latitude to the Honourable Member. The amendment he is moving is that the punishment should be three months instead of one year. He will please restrict himself to that issue.

Mr. S. C. Mitra: I have made my statement that it is only to remove the rigour of the law that I move this amendment; I merely wanted to reply to the sermon on law from the Honourable the Law Member.

Mr. D. K. Lahiri Chaudhury: Sir, I rise to support the amendment which has been moved by my friend. In supporting the amendment, first of all I confess that I am not a lawyer; neither have I the capacity of advising the Government of India on law. But I have been guided by common sense and I put an illustration just to understand from the Law Member or from the Member who was piloting the Bill as to how far this amendment stood. I just expected a reasonable explanation, whatever that might be, and when I was just developing the arguments on the previous one, I thought it proper and it has been very rightly explained by the Honourable the Home Member in his reply on the previous amendment that it was with that intention

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The amendment is to reduce the punishment for the offence from twelve to three months.

Mr. D. K. Lahiri Chaudhury: I am coming to that

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Honourable Member has to come to it immediately.

Mr. D. K. Lahiri Chaudhury: And to this I think the attitude which has been taken by the Law Member previously will also be maintained in opposing this motion. I know it and I can foretell it; but, still, at least as I come from Bengal, I appeal that really instead of one year the punishment ought to be for three months, because we can easily understand how these prisoners are going to be treated in the jail. In the first place, if the Honourable the Home Member takes a little courage or a little trouble just to go and visit the jails and give a patient hearing to those prisoners

who are convicted in connection with the civil disobedience movement, he can easily understand what is the general treatment they get in jail. After all, though they are convicted by law, whatever may be the principles on which they have been convicted, whatever may be the spirit and ideas—I do not want to discuss them now on the floor of this House—the punishment which they receive in jail is beyond the conception of human knowledge; and sometimes if the Honourable Member will only look at the treatment of these unfortunate prisoners who are suffering from agonies under the imprisonment, I think, he will himself maintain that imprisonment of these gentlemen, for a year is a very long term. I think in this particular case at least the period of imprisonment should be reduced from one year to three months. Sir, I support the motion.

The Honourable Mr. H. G. Haig: Sir, we discussed a similar amendment on clause 2 at some length yesterday, and I do not think it is necessary to go once more into the general considerations that arise as to the nature of imprisonment and whether imprisonment is a reasonable punishment or not. The only question that arises here is, whether one year is an excessive period to impose as a maximum for this offence. It appears to me, Sir, that one year is a perfectly reasonable period. After all, though my Honourable friend, Mr. Lahiri Chaudhury, has painted a picture, intended to rouse the sympathy of the House, of some patriot being sent to jail under this clause, I would ask him why it is necessary for anybody to launch an unprovoked attack of this sort on the organization and machinery of Government.

There is one other point which, I think, is worth making. The Select Committee, before it was shorn of any of its Members, considered this clause and did not propose any reduction in the period of imprisonment.

Mr. B. V. Jadhav: By the casting vote of the Chairman.

The Honourable Mr. H. G. Haig: Sir, I oppose the amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question which I have to put is:

"That in clause 3 of the Bill, for the words 'one year' the words 'three months' be substituted."

The motion was negatived.

Mr. B. V. Jadhav: Sir, I move:

"That in clause 3 of the Bill, for the words 'one year' the words 'six months' be substituted."

I am conscious, Sir, that I am leading a forlorn hope against the adamant heart of the Treasury Benches, and I need not expect any mercy from that quarter. But, all the same, I have to do my duty, and I wish to urge before this House that as the crime has been newly created and as it will not be a crime three years hence according to the proposal of Government themselves, and as this has been made a technical crime, the punishment for it should not be so severe as one year's rigorous imprisonment. I, therefore, move, Sir, that the punishment be reduced to only six months.

The Honourable Mr. H. G. Haig: Sir, my friend Mr. Jadhav's plea is that this is only a technical offence. I regard it, on the contrary, as a very practical and dangerous offence, and I have already given my reasons for thinking that one year is a suitable period. I oppose the amendment.

Mr. President (The Honourable Sir Ibrahim Rahmitoola): The question which I have now to put is:

"That in clause 3 of the Bill, for the words 'one year' the words 'six months' be substituted."

The motion was negatived.

Mr. S. O. Mitra: Sir, I move:

"That in clause 3 of the Bill, after the words 'or with fine' the words 'not exceeding two hundred rupees' be inserted."

I have made my submission about this when a similar clause was discussed before in connection with this Bill; still I should like to be enlightened as to why there should be so much difference between imprisonment and fine; when there is a maximum period fixed for imprisonment, why should there not be a maximum similarly fixed for imposing fines. I think the Home Member argued that certain classes of Magistrates under the Statute can inflict punishment both as regards imprisonment and fine up to a fixed degree, and that argument holds good both for imprisonment and fine. Here the accused will be in a predicament whether to prefer a First Class Magistrate where he can expect better judgment, because of the Magistrate's greater experience, or whether it will be preferable to him to go to a third class Magistrate whose powers are limited. Sir, I move.

The Honourable Mr. H. G. Haig: Sir, my friend, Mr. Mitra, suggests that there is some inconsistency between imposing a maximum period of imprisonment and leaving the limit of fine undefined. Well, Sir, if there is any inconsistency, it is one that runs all through the Indian Penal Code as I think my friend very well knows, and it would in fact be contrary to our general conceptions of the theory of punishment that the Courts should be authorised to impose in every case imprisonment without any limit. I do not suppose that my friend would suggest importing those principles into the Indian Penal Code.

On the general question, Sir, I argued the matter at length yesterday, and I have nothing to add.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question which I have now to put is:

"That in clause 3 of the Bill, after the words 'or with fine' the words 'not exceeding two hundred rupees' be inserted."

The motion was negatived.

Mr. Lalchand Navalrai: Sir, I move:

"That to clause 3 of the Bill, the following Proviso be added:

"Provided that no Court shall take cognisance of an offence punishable under this section unless upon complaint made by order or under authority from Local Government or some officer empowered by the Government in this behalf."

I am conscious, Sir, that when I moved a similar amendment to clause 2, it was not accepted, but I must say that I am not disappointed on that

account, and so I put forward this amendment for consideration. I am also not hopeless of the Members of the Treasury Benches and I trust they will consider whether this amendment is not more appropriate and useful to clause 3 than to clause 2.

The object of this amendment is merely to see that the prosecution under this drastic clause should not be solely in the hands of the police, and such a difficult clause as this should be interpreted and worked by a higher authority than the police. We have also to consider that the object with which the prosecution is launched, namely, to aim at organised campaigns against tampering with a public servant, is fully realised and considered in each case. These are questions which, it should be admitted, are very difficult for a police officer to decide, and when it is a cognisable offence, it does not require him even to consult anybody before he can send up the accused directly to the Magistrate, thus putting him to all sorts of trouble. Therefore, as a safeguard, I am requesting that this proviso should be added. It has been pointed out today in the course of arguments that it will be very hard to interpret this clause, as it stands, in actual working. It took so much time to the Honourable the Law Member to explain what "attempt" is. He sought the help of the Penal Code and jurisprudence for the purpose of leading us to the meaning of the word "attempt". Therefore, as the meaning is not defined under the clause itself, and as there are some other undefined terms as "duty", and so on, in this Bill, it is very necessary that this proviso should be added. If a man were to ask a public servant not to impress certain carts or certain camels for the purpose for which they are needed, it will not be his legal duty. But the word used here is only "duty". Therefore, anything can come under this clause. These are things which have to be considered by a higher authority, and that is the aim and object of my amendment. The main reason why this proviso has not been attached by the Government seems to be that it might cause delay. But the number of cases in which the Congress has attempted to tamper with public servants is not much, nor has it been shown to be so. There may be one or two cases, but what delay would there be in asking the Local Government to give their consideration to this matter before instituting a prosecution? That safeguard should be given and the power should not be placed merely in the hands of police officers. I move my amendment.

Mr. Amar Nath Dutt: Although I did not see eye to eye with my Honourable friend on a similar amendment to clause 2, I must admit, after hearing the arguments of my Honourable friend, that I am fully convinced that this is a very good amendment and it ought to be accepted by every one of us in this House including the Members on the Treasury Benches. Our cry is a cry in the wilderness, and although we feel the contempt with which our arguments are being treated, still we have a duty to perform not only to our country and ourselves, but also to the Government. In this matter I have nothing but unqualified praise for my Honourable friend who, though defeated on a similar amendment before, has again come forward and put before us far more cogent arguments for the acceptance of this proviso, and I hope that the Government will see their way to accept it.

The Honourable Mr. H. G. Haig: Sir, I am sorry that my Honourable friend, Mr. Amar Nath Dutt, should suggest that the arguments on that side of the House are being treated with contempt. We do, it is true,

[Mr. H. G. Haig.]

endeavour to avoid unnecessary repetition and I hope he will forgive me if I do not repeat the whole of the arguments that I gave yesterday afternoon on a similar amendment. But, to the best of our ability, we do listen very carefully to the arguments put forward from the other side and endeavour to meet them. There is little or nothing to add to what I stated yesterday afternoon. Cases coming under this clause are not likely, in my judgment, to raise very difficult questions such as would require a previous reference to the Local Government, and though my Honourable friend, Mr. Lalchand Navalrai, said that the cases would not be many and, therefore, it did not matter if there were delay, I must altogether differ from him on that point. It does not matter whether the cases are many or few, but it is most important that they should be checked at once. Sir, I oppose the amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question which I have now to put is:

"That to clause 3 of the Bill, the following Proviso be added:

'Provided that no Court shall take cognisance of an offence punishable under this section unless upon complaint made by order or under authority from Local Government or some officer empowered by the Government in this behalf'."

The motion was negatived.

Mr. B. V. Jadhav: Sir, I move:

"That in the *Explanation* to clause 3 of the Bill, the words 'a servant of a local authority or railway administration' be omitted."

I need not make any elaborate speech on this point. The expression "public servant", as defined in the Indian Penal Code, is understood by almost all, but the *Explanation* here extends the definition and includes other officers who were up to this time not considered as public servants. A servant of a local authority or a railway administration will be a public servant under this *Explanation*. But I think, that, as far as servants of local bodies are concerned, they are not exposed to the danger of being induced to fail in their duty. The civil disobedience movement has not, as far as I know, touched the servants of local authorities. People have come to understand the difference between a servant of Government and a servant of a local authority, and the Congress people at all events know full well that by inducing servants of local authorities to give up their work or to fail in their duty, they will not harm the established Government of the country. Therefore, whatever their foolish attempts may be to disorganise Government work, I do not think they have taken any steps to disorganise the work of local bodies, because, by disorganising the work of local bodies, they themselves will have to suffer from the ill effects of such disorganisation. For that reason, if they make any such attempt, they will be acting contrary to the welfare of the people and, therefore, the Congress bodies know full well that their interference or their meddling will not be tolerated. So there is no danger from any attempt to induce a servant of a local authority to fail in his duty. Therefore, I say that the words "a servant of a local authority" should be omitted. I want to point out the danger that will be there if servants of local authorities are included in this *Explanation*. We know that there are many grievances of these municipal and local board servants, and

if they try to combine and make attempts for redress of their grievances, the higher officials may take advantage of this clause and get the leaders of such a movement arrested, and, in that way, the right of combining or going on strike, which ought to be reserved for the servants of local bodies and the servants of railway administrations, ought to be protected and ought not to be taken away. If the servants of railway administrations are kept here in this *Explanation*, then their right of going on strike will be greatly prejudiced and they will not be able to go on strike, because their leaders will be immediately hauled up before a Criminal Court for infringing the provisions of this clause. I, therefore, move that the words "a servant of a local authority or railway administration" be omitted.

Mr. T. N. Ramakrishna Reddi (Madras ceded Districts and Chittoor: Non-Muhammadan Rural): I have great pleasure in supporting this amendment, as one who has got some interest in local board administration. The Government, in their anxiety to make the definition of public servants cover as many departments as possible, have included local bodies also. Thanks to Lord Ripon, he has given to Indians a form of self-government in the local boards so that it might be a training ground for Indians to take part in the wider field of public activities and everywhere there is a general desire to take part more and more in self-governing institutions and various Acts have been passed in the Local Councils to enfranchise as many people as possible and it has opened the minds of the people to take larger and larger interest in local administration.

There is absolutely no necessity for the Government to bring in these local boards also under this definition. The cry on the other hand should be a halt. Then, the Railway administration is also maintained for the convenience of the public and, if anybody wants to deter a railway servant from performing his duty, he will be acting to the detriment of the public and to the great inconvenience of the public. So there is absolutely no necessity to include these two departments under the definition. I have great pleasure in supporting the amendment.

Kunwar Raghubir Singh (Agra Division: Non-Muhammadan Rural): I beg to oppose this amendment. The Honourable Mr. Jadhav wants that the servants of local authorities and railway administrations be omitted from this clause. Local authorities mean, I think, municipalities, district boards, town areas, and so on. Now, Sir, the civil disobedience people are as much prone to induce the men employed by these bodies to give up their places and job, as other Government servants. If these people are tampered with in this way, the work of these bodies will suffer. So, in the interest of the public, this clause should stand as it is and I, therefore, oppose this amendment.

Mr. S. C. Mitra: I support the amendment of my friend, Mr. Jadhav. It seems that Government under this clause contemplate some improvement on the Ordinances themselves. I shall read the definition of "public servant" as it appears in Ordinance X of 1932. Clause 69, sub-clause (b) says:

"a public servant includes a public servant as defined in section 21 of the Indian Penal Code, and a servant of a local authority and a person belonging to any class of persons which the Local Government may, by notification in the local official Gazette, declare to be public servants for the purposes of this Chapter."

So there is no mention of railway administrations and, so far as I know, no Local Government, by notification in any official Gazette, made these

[Mr. S. C. Mitra.]

railway servants public servants. It is not the Government's case that the position has become worse since the promulgation of these Ordinances. As regards local bodies, I can say that the Congress programme is really to capture them. The Government at least care to know the Resolutions of the Congress. That was my impression, but this shows that they are not acquainted with the Resolutions that are passed. I myself attended the Lahore Congress where, in the Subjects Committee, we fought against both the Resolutions about boycott of the Councils and the boycott of local bodies and we showed the inconsistency of the position of the Congress Sub-Committee authorising the Congress members to capture local bodies. It is known to Honourable Members that the Congress captured some of the big self-governing institutions like the Calcutta Corporation and other such local bodies in different places. If the intention of this Bill is to control the civil disobedience movement started by the Congress, then, I say there is no necessity for a provision like this, so far as officers of local bodies are concerned. With these words, I support the motion.

The Honourable Mr. H. G. Haig: Sir, I think this provision would be altogether incomplete if the words, which it is now proposed to omit, were not put into the clause. The Congress or any other subversive body is not bound down rigidly to a particular programme. If they are shut out from activities in one direction and a large loophole is left them in another direction, they will go in that other direction, and I think it would be an invitation to the Congress to concentrate their attention on local bodies if these words are left out of the Bill. After all, Local authorities have very important administrative functions to perform and any body of men, who are endeavouring to paralyse the administration, will not neglect that opportunity if it is offered to them.

Now, it has been said by one or two Honourable Members that because the activities of local bodies and of the railways are beneficial to the public, therefore, there could be no fear that the Congress or any other body would try to interfere with them. Now that seems to me to be a curious contention in view of the obvious facts with which we are all familiar. It surely is to the detriment of the public that trains on the railways should be stopped by pulling the communication cords, but the fact that that is detrimental to the public does not deter these Congress agents from performing this ridiculous trick. In the same way, the mere fact, that interference with local self-governing institutions would be detrimental to the public, would, in no way, deter the Congress from interfering, if they think it will help them in their main task of trying to paralyse the administration. Moreover, I find it difficult to follow the assumption that the only public activities which are of any use to the people in general are those carried out by local self-governing bodies. Surely, the normal activities of the Government themselves are of some use to the public. Surely, it is an advantage, one would suppose it was from questions that are addressed to me in this House, that there should be an efficient police force. Surely, it is an advantage that there should be a revenue staff, and that *patels* and people of that type should not be induced to abandon their functions. Sir, the Congress activities are not limited to interfering with functions that are not in the interests of the people.

There is one other point raised by my Honourable friend, Mr. Mitra. I was aware that he had a great affection and respect for the terms of

the Ordinance and that anything that could be found in the Ordinance would be sufficient authority to him and would perhaps ensure his acceptance. Well, Sir, he suggested that these words, which it is proposed to omit, are not to be found in the Ordinance and that they should, therefore, be omitted from this Bill. Now I should like to give him the authority he asks for, and I hope that in that case he will join me in voting for the continuance of this provision. I would refer him to section 24 of the Ordinance which corresponds to the clause we now have under discussion, in which he will see the words:

"whoever induces or attempts to induce any public servant or any servant of a local authority or any railway servant."

Mr. S. C. Mitra: Sir, I stand corrected.

The Honourable Mr. H. G. Haig: Sir, I oppose the amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in the *Explanation* to clause 3 of the Bill, the words 'a servant of a local authority or railway administration' be omitted."

The motion was negatived.

Mr. B. V. Jadhav: Sir, I move:

"That in the *Explanation* to clause 3 of the Bill, the words 'and an employee of a public utility service as defined in section 2 of the Trade Disputes Act, 1929' be omitted."

Sir, I need not say anything more than what I did on the previous amendment. The servants of public utility companies are not likely to be tampered with by any peaceful movement such as that of the Non-Co-Operation Movement. Of course, when there is a revolution, the first thing that is done to disorganise a Government is to cut the wires of telephones and telegraphs or to interfere with the water supply or the lighting, and so on. But from the Non-Co-Operation Movement such interference need not be feared, because that will paralyse the local administration and cause inconvenience to the people themselves. Congress workers come from the people and they do not like to inconvenience the people. Therefore, I claim that this provision is quite unnecessary and ought to be omitted. Sir, I move.

The Honourable Sir Brojendra Mitter: Sir, I would draw the attention of the House to the definition of "public utility service" in the Trade Disputes Act (VII of 1929):

"A 'public utility service' means:

- (i) any railway service which the Governor General in Council may, by notification in the Gazette of India, declare to be a public utility service for the purposes of this Act, or
- (ii) any postal, telegraph or telephone service, or
- (iii) any industry, business or undertaking which supplies light or water to the public, or
- (iv) any system of public conservancy or sanitation;"

Sir, it would be obvious to Honourable Members that it is in the highest degree injurious to the public interest if employees of these public utility services were to be tampered with. It has been said by the Honourable

[Sir Brojendra Mitter.]

Mr. Jadhav, that the Congress were not likely to interfere with the employees of these services. Sir, we have heard of telephone lines being cut and of telegraph lines being tampered with.

Mr. B. V. Jadhav: That is punishable under other sections.

The Honourable Sir Brojendra Mitter: We have known of actual instances. As my Honourable colleague, the Home Member, pointed out a short while ago, if you omit public utility services and render them open to the attacks of the Congress, then their attention will be concentrated on these very services, which would involve very great injury to the public. Sir, I oppose.

The motion was negatived.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question I have now to put is that clause 3 do stand part of the Bill.

The motion was adopted.

Clause 3 was added to the Bill.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That clause 4 do stand part of the Bill."

Mr. Jadhav.

Mr. B. V. Jadhav: Sir, I do not move it*.

Mr. S. G. Jog: Sir, my friend having decided to withdraw the amendment that stands in his name, I rise to move amendment No. 57, namely:

"That clause 4 of the Bill be omitted."

Sir, it is necessary to go into the history of this measure. I am told that this measure has been copied from the Irish Law of Crimes.

I must congratulate the occupants of the Treasury Benches that they have got to have recourse to the Irish constitution for introducing legislation in India. We all probably know that the word "boycott" had its origin in Ireland. It is named after Captain Boycott who was an Irishman and it is from him that this manifestation or this phase of activity has assumed the name and it has taken a firm root in India as well as in the minds of the occupants of the Treasury Benches. I would like to give the House the original definition of "boycott" as given in section 60 of Ordinance X of 1932. We do not find any such definition in the Bill that is now before us. It runs thus:

"For the purposes of this Chapter, a person is said to 'boycott' another person who refuses to deal or do business with, or to supply goods to, or to let a house or land to, or to render any customary service to such person or any person in whom such person is interested, or refuses to do so on the terms on which such things would be done in the ordinary course, or abstains from such professional or business relations as they would ordinarily maintain with such person;"

and, then, it goes on to say what a public servant is. I have no quarrel with the occupants of the Treasury Benches as regards the definition of the word "public servant", but when we see that the very principle of this measure is pernicious, it matters very little to me whether it is this

*"That clause 4 of the Bill be omitted."

class or that class of public servants. As these Ordinances were made only for six months, probably the language was not closely scrutinised and, as it was considered an emergency measure, probably much thought was not given to it nor did the people give any thought to it. Now, this clause has been inserted in the Bill that was presented to us in the original form and, in this connection, I would like to read to the House the clause as it has emerged from the Report of the Select Committee, because it has undergone a drastic change. I would like to draw the attention of the House to the Minute that has been presented to the House. On this clause it says:

"The many alterations made in the drafting of this clause are aimed at achieving increased clearness."

When the Bill was introduced, they never thought about the actual words and clearness:

"We considered the word 'prejudice' to be unduly wide in meaning."

The object of the framers was to make it very wide and elastic:

"We have qualified by material insertions the words relating to the letting of a house or land, which we consider to be undesirably loose."

Who asked you to make it loose? Have you not got the whole Secretariat and the Secretary of the Legislative Department at your command who can draft Bills with precision and accuracy, and not put loose things?

"We have simplified the language, retaining the expression 'to deal with' as a comprehensive general description of the activities particularised in the draft clause. We have introduced a more definite expression for the words 'person in whom such public servant is interested' and we have made it clear that the words 'on the terms on which such things would be done in the ordinary course' qualify all the preceding phrases. We have also changed the reference to 'professional or business relations' to a particular reference to the withholding of medical services, these being the professional services which it is most important to assure to public servants in the limit to the fine which may be inflicted. We have further provided by the new sub-clause (2) a safeguard against abuse of this section by indiscriminate complaints in the Courts."

The object of my reading this is to show to what extent this clause has been subsequently altered in the Select Committee. We did not reach that point when our ship wrecked. However, in this clause we found that its language, its ideas and its general expression were so loose that several amendments were proposed and, as a result of our discussion, we were able to carry a number of them. But, in spite of all the improvements, the clause is so loose, and, in actual practice, it is so difficult to work, that I for one see no reason why we should have this clause even in its present form. I will read to the House how it runs in its present form. My object in reading it again and again is that the more you read it, the more puzzled you become. It runs thus:

"Whoever, with intent to harass any public servant in the discharge of his duties, or to cause him to terminate his services or fail in his duty, refuses to deal with or to let on reasonable rent a house usually let for hire or land not being cultivated land to, or to render any customary service to such public servant or any member of his family, on the terms on which such things would be done in the ordinary course, or withholds from such person or his family such medical services as he would ordinarily render, shall be punished with imprisonment for a term which may extend to three months, or with fine which any extend to five hundred rupees, or with both."

Then an Explanation is added and also what they call a sort of a safeguard.

[Mr. S. G. Jog.]

Sir, if you scan the whole clause, you will find how difficult it is to work when the accused goes before the Magistrate. I will take the first point—"refuses to let on reasonable rent". If a public servant makes a complaint that such and such person has got a house and he did not give it to him on rental though he was prepared to pay the rent, naturally the question before the Magistrate will be what the rent of that house will be. It is impossible to come to any definite conclusion as to what the reasonable rent should be and, therefore, the House can see how difficult it will be in actual working.

The Honourable Sir Brojendra Mitter: Unless you raise your voice, we cannot follow you.

Mr. S. G. Jog: You want me to raise my voice. I thought I had already raised my voice sufficiently: however, I shall try to raise it still more.

Then, I come to another point—"land not being cultivated land". Then, this officer wants a piece of land, I do not know for what purpose. Then he enters into negotiations with the villagers and they do not come to any terms, because naturally he wants to strike the bargain as cheap as he possibly can. So, when he finds that he is not able to strike a bargain, he would naturally make a complaint to afford him facilities to acquire the land that he wants. Then the matter again goes to Court and

4 P.M. the whole thing is gone into again. The expression "render any customary service to such public servant or any member of his family" is very difficult to be understood. It is very difficult to say what sort of customary service the people have got to give to a Government servant. What are the residents of the village supposed to do for a public servant? What will be his demand? What does he want the residents to do for him? There will probably be so many services which the public servant expects to get from the residents of a village. When the case goes to a Magistrate, he may take evidence as to what is the customary service in that village or district or in the Presidency as a whole. Probably the poor Magistrate has to decide on a technical and complicated question before he comes to any conclusion or before he finds the particular person guilty of any offence.

The clause further reads:

"on the terms on which such thing would be done in the ordinary course."

Well, Sir, what are the things done in the ordinary course? Has there been any standard or meter or any fixity as regards the rent of a small house or land in those villages or towns? Is there any schedule or meter by which these things can be measured? Are you going to harass these poor villagers and haul them up before the Magistrate and put them to all these troubles and inconveniences?

The clause further goes on:

"or withholds from such person or his family"

Not only is the poor villager expected to do customary service for the public servant, but also to his family. What do you mean by the word "family"? Who are all to be included in the word "family"? Surely everybody would like to be included in that word "family" with a view to getting customary services from the villagers.

The clause further says:

"such medical services as he would ordinarily render."

Sir, I think if we have to decide all the points raised in this clause, we will have to establish a Supreme Court or a regular Tribunal of Judges of great eminence who will be able to decide all these technical and complicated, and delicate and nice questions.

At the end of the clause, the period of imprisonment is given with which I do not wish to bother the House. There is the all-pervading and all-engrossing clause before the House and we should consider whether such a provision could be given effect to and whether we should be a party to allowing such a clause to be placed on the Statute-book. The Government are very keen in having this weapon in their armoury in order to combat the civil disobedience movement. They say that by this measure they will be able to create a sort of statutory affection towards the public servant. May I ask, Sir, whether this affection or the desire to satisfy the ordinary needs of public servants can be created by a Statute? Like ordinary citizens, if these public servants live in the village and cultivate good relations and if they discharge their duty honestly, and if they render proper service to the village, do you mean to say that the residents of the village will have any tendency to boycott these public servants? In spite of the Congress programme, even in these days, I do not think there are cases where any such boycott could take place or I do not think there are cases where such ordinary facilities are denied to these public servants, if they discharge their duties honestly and in the good interests of the citizens of the village. I do not think the Government are wrong in giving this protection to public servants. If by such measure the Government are successful in having good relations between the public servants and the residents of a village for whom the public servants are meant, if they succeed, then it is not wrong. But the whole question is, whether this is the right sort of way of creating affection between the people and the public servants. I should like to take a very broad view of the expression put into this clause. We have been saying that one of the purposes of this emergency measure is to arm not only the present Government, but even the future Government which will soon come into existence. The idea of the Government is that the future Government also should be armed with weapons which will be necessary for them in order to carry on the proper administration of the country whenever such future Government comes into power. I sincerely thank the present Government for their good wishes. I have no grudge or bias as regards your desire. I hope and trust that the time will soon come when the transfer of power will come to this side of the House. Let me assure you, Sir, that what is required at the present juncture is goodwill, mutual goodwill and mutual confidence between the Government and the subjects, and, if success of the future constitution is to be based upon these two principles of mutual goodwill and confidence, do the occupants of the Treasury Benches want that we should open this new Chapter of Reforms placing such black Bills as the present one on the Statute-book? I think this is the most unfortunate time to introduce a measure like this. I trust that this clause will be deleted from this Bill. It is not necessary even in the interests of public servants. What you propose to do will never benefit the public servants. I think you will make the position of public servants worse by this legislation.

[Mr. S. G. Jog.]

As I have already explained, even from the point of view of propriety, this is not the time to introduce such a drastic, nay, un-comprehensive measure which, instead of creating good feelings between the public servants and the people, will have the effect of more and more creating bad feelings amongst them. Sir, in spite of the so-called safeguard put at the end of this clause, I still move that this clause 4 be deleted. This safeguard was not inserted in regard to other clauses. No doubt the Government have made a sort of safeguard in sub-clause (2) of this clause. But, in my opinion, there is great danger here also. If a complaint is lodged "by order or under authority from the Local Government", this will be a sort of certificate and I do not think any Magistrate in India will dare go against the Local Government's desire, and the Local Government's order or sanction or advice, whatever you may call it, will be tantamount to an order to the Magistrate to convict the man, and the question of the period of sentence alone is left to the Magistrate. The question of safeguards is a double-edged weapon. In some cases, it may prove beneficial, in some other cases, it may prove a great hardship. Although this clause has been considerably improved in the Select Committee, yet, in its present state, I think it is sufficiently poisonous to kill our body politic. Sir, I move that clause 4 be deleted.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Amendment moved:

"That clause 4 of the Bill be omitted."

Mr. B. Sitaramaraju (Ganjam *cum* Vizagapatam: Non-Muhammadan Rural): Sir, I rise to support this amendment. I consider that the provisions of this Bill under this clause are an unwarranted interference with the ordinary rights of citizens and at times the clause would read a little ridiculous in its scope of what effect such provisions are likely to bring about. I also consider, Sir, that the terms, in which this clause has been drafted, are likely to prove to be an instrument of tyranny in the hands of petty officials and, on a perusal of this clause, we come to certain provisions which look, if not ridiculous, highly detrimental to the tranquillity and peace of the public. For instance, when we come to a provision like this, it would be a crime under this clause, if one refuses to deal with a public servant.

I remember, Sir, an illustration was given the other day that, under the shelter of a provision like this, it is open to any Government servant to compel a money-lender to lend money to him. It may be, as is very often the case, that the public servant may not be stationary in one place, and it is quite likely that a man, on looking at the security on the amount that he has to lend, may refuse on reasonable suspicion that he is not likely to realise the money lent to that officer. In that case he would come under this clause. Again, we have a provision under which it is obligatory on the part of a citizen to rent his house to a public servant and that on what is said to be a reasonable rent. Who is to judge what is a reasonable rent? I suppose the reasonableness or otherwise of that rent would be judged by the officer himself and there is no Court of appeal against his judgment. Then the provision is likely to create hardship among a certain class of persons, for example, the Jains. They will be bound, under this clause, to rent their houses to communities to whom they are usually not in the habit of giving houses on rent either on the

ground of caste or on the ground of religion or on any other grounds on which they would not be likely to rent their houses to any public servant, however great he may be. That is usually done in several localities where such class of people live. We have to remember, however deplorable it may be, that in certain cities particular localities are set apart for the use of particular communities and they would consider it an intrusion on the part of any person, not belonging to that particular community, to enter there. I am not discussing whether this exclusion is right or wrong, but we have to take into consideration what is, after all, a fact, and as such this provision is likely to create hardship. Again, Sir, we have a provision where we find that a medical man is bound to go to a public servant, because he wants medical service to be rendered to him. A provision, so loosely drafted, is absurd. They do not take into consideration the fact that the medical man may find his work so heavy on a particular day that he may not respond to the call of a public servant or that he may have duties more urgent than the public servant's call. For instance, he may have to attend a service which he is obliged to attend and for which he is paid a regular amount. He may have to attend a poor man who perhaps could not afford to call another medical man at a fee which the Government servant would be able to pay. This clause would compel the medical man to go and render service to the public servant in the first instance and then look to his other obligations, moral and otherwise, to society. Therefore, I consider that the provisions of this clause, taken as a whole, are a most unwarranted interference with the ordinary rights of a citizen and so I support the amendment.

Sir Muhammad Yakub: Sir, I rise to oppose this amendment. If the mischievous activities of the Congress are to be stopped and if Government servants are to be protected against the usual tyranny of Congress propaganda, then this clause is one of the most important clauses of the Bill. We know very well that a very common form of Congress propaganda, in order to harass a Government servant, is to boycott him. Now, Sir, consider the case of a Government servant who is transferred to a small town or a village. He goes there and finds that nobody would give him a house to live in. He finds that no washerman would wash his clothes, no barber would shave him and no merchant in the town would deal with him and give him his daily provisions. His life in these circumstances would become a hell for him and it would be impossible for him to discharge his duties. And this is not an imaginary state of affairs. Experience has shown that resort was taken to such methods not in one place, but in several places, and not in one province, but in several provinces. Therefore, if you want to protect Government servants against the ordinary tyranny of the Congress, this clause must form part of this Bill.

As regards the objections which have been raised to the wording of the clause, my friend, Mr. Raju, has said that even a money-lender may be prosecuted and hauled up for not dealing with the Government servant and lending money to him. I am surprised that a man like Mr. Raju, for whose common sense I have always had great admiration, should raise such an objection. If he only read the wording of the clause, he would find that:

"with intent to harass any public servant in the discharge of his duties."

This is a condition precedent to bring a man within the provisions of the clause.

[Sir Muhammad Yakub.]

Then and then alone he will come within the purview of this clause. Lending or refusal to lend money to a Government servant has no connection with the discharge of his public duties, and I submit that this objection is merely futile.

My friend, Mr. Raju, again said that the owner of a house might refuse to give his house on rent to a public servant on the ground of his belonging to a particular community. This is the real crux of the whole thing. My friend has not explained what he means by saying "on the ground of men belonging to a particular community". Suppose a Mussalman tahsildar is transferred to a small tahsil which is inhabited almost entirely by Hindus, which very often happens in small towns in the eastern districts of the United Provinces. The Mussalman tahsildar is transferred there and the houses, which are let out on rent, all belong to Hindus. So a landlord may say that his house is not usually let out to Muslims and that it would be an intrusion on his religious susceptibilities if a Mussalman were allowed to take his house on rent. Does my Honourable friend mean this contingency? I submit that this clause is meant to cover such cases, when communal hatred will be demonstrated in the garb of Congress propaganda. I submit that it is extremely necessary that a clause like this should be retained.

Now, as regards the improvements which this clause has undergone in the course of the Select Committee, I would only submit that improvements have been made to such an extent that the Honourable the Home Member has been forced to table two amendments to this clause. It shows to what extent this clause has been amended in the Select Committee. The Mover of the amendment, Mr. Jog, has raised objection to sub-clause (2) which provides a safeguard for the institution of complaints under this clause. It is very difficult really to understand the mentality of my friends on the other side. They try to blow hot and cold in the same breath: if a provision like this, which is really in the interests of the accused person, is not added to a certain clause, they say it ought to be added there; but when Government want to give the same protection, then they will say "No; it is injurious and should be withdrawn". This shows with what mentality they were discussing this Bill and what is the mentality of the Honourable Members who are opposing it. With these reasons, I oppose the amendment and support the motion.

Mr. H. T. Sorley (Bombay: Nominated Official): Sir, I rise to oppose this amendment. Boycott of public servants is a form of intimidation and molestation which has to be specially provided for. The civil disobedience movement has directed a very long and concentrated campaign against the Criminal Law of the country; and the course of that campaign has revealed many weaknesses in our Criminal Law, but only two serious defects. These two serious defects are the failure of the definition of the word "criminal intimidation" in section 508 of the Indian Penal Code; and the second great defect is the inadequacy of the law in dealing with unlawful associations. Now, the clause of the Bill, now before the House, deals with the first of these defects, namely, one of the manifestations of criminal intimidation. Criminal intimidation has been the chief motive force behind the civil disobedience movement. It

was because of its early success that the Congress organisers have managed to intimidate the general public and to bring force to bear upon Government servants; and this particular clause, No. 4, dealing with the boycott of public servants, is merely an extension towards the Government servants of methods which have been employed against the public at large. Now, the point I wish to make is, that the boycott of Government servants is dangerous and must be met, because it aims at an essential part of the scheme of administration. It is quite true that the people who are most affected by this manifestation are not the high officers: they are mostly able to look after themselves. The evil that lies in this movement is in the success which it is able to achieve in compelling those Government servants or public officers who are least able to resist it. I am going to make this point perfectly clear in a minute or two. As I said, the boycott of public servants is directed chiefly and most effectively against those who have no power or not sufficient power to resist. The persons who have been most affected by the movement are village patels, headmen, talatis or village accountants and clerks who happen to be stationed in small places and not in large towns and cities. The real driving force behind this movement is aimed at conditions in the villages and it is precisely there that it is most dangerous. There is no danger as far as the towns and cities are concerned; but it is most dangerous in the villages, because it is in those places that the movement has most power and the public servants, who are most affected and most hard hit, are usually persons, the solitary representatives of authority in the village. During the start of the civil disobedience campaign they were surrounded by a multitude of people who used every conceivable means they could think of, under the conditions laid down by Mr. Gandhi, to make it impossible for these Government servants to perform the duties which they are paid to perform and to perform which they are appointed. These public servants live in places where they are cut off from the towns and conveniences.

It has been said, not in the arguments on the present amendment, but in the previous discussions on this Bill, that Government need not fear forced resignations, because there are always plenty of persons willing to take the place of those who have resigned. As far as resignations caused by boycott of public servants go, that is precisely untrue. There is no rush to take the place of persons who have been forced to resign, because such persons are socially boycotted, and in Guzerat, which was the portion of the Bombay Presidency most affected by this particular form of intimidation, it was very difficult, for at least three months, for the administration to be carried on. I shall give the House facts and figures in a moment or two to show exactly what happened in Guzerat during the first three months of the civil disobedience campaign, because what happened there is typical of the evil which a movement of this kind can produce and will produce in similar circumstances, provided they are favourable. The effect of a successful boycott of public servants must also be considered. It is exceedingly bad for the public morale. Hardly anything can be more discouraging to the authorities responsible for law and order than to see public servants so cut off from assistance as they are and were in Guzerat, where it was practically impossible immediately to remedy the situation, and hardly anything could create in the minds of ignorant villagers a greater disrespect for law and order. These are precisely the conditions which existed in Guzerat at the start of the civil disobedience movement, and it was the condition prevailing in Guzerat

[Mr. H. T. Sorley.]

during April and May and part of June, 1930, that gave the civil disobedience movement a great deal of its momentum.

I wish to answer another objection that has been advanced on the other side. It was put forward particularly in the debate on the second reading, by Sir Abdur Rahim, when he suggested that if this clause is passed into law, it will be putting Government servants into a position of privilege. Sir, it will be nothing of the sort. The intention of this clause is merely to maintain the *status quo* of Government servants in villages before the civil disobedience movement started. It aims at nothing more than protecting the position in which they were before the movement started: and it will do nothing more. Sir Abdur Rahim used an argument which I was quite unable to follow, namely, he referred to the difficulty private individuals had in finding house accommodation in Calcutta; and he seemed to suggest that if this Bill were passed into law, it will make it easier for Government servants to get houses there to the prejudice of ordinary citizens; in fact, only Government servants would obtain houses easily, while private individuals would not be able. Sir, nothing could be further from the truth. The particular provision relating to houses in this clause is devised to meet the conditions which were prevailing in the Bombay Presidency and elsewhere, particularly in Guzerat, when this movement was at its height. What happened was that Government servants in small villages were sometimes served with notices by their landlords that they must clear out, and it is not easy, in the housing conditions prevailing in small villages, as Honourable Members are aware, to provide alternative accommodation for them. The problem we were really faced with was what, under those circumstances, we should do. I do not think it will be the intention of Honourable Members that in these circumstances the public servants, responsible in various ways for the maintenance of law and order, should continue to be exposed to such hardship or utmost of hardship or that Honourable Members will refuse to take appropriate remedy when the facts are placed before them. I cannot believe that that is the intention of Honourable Members.

The forms of boycott which were prevalent in the Bombay Presidency during the heyday of the civil disobedience movement, which was before the Ordinances were put into operation about July, 1930, were firstly forcing village officers to resign by threats of boycott. This happened in Guzerat, and it was particularly prevalent along the whole line of Mr. Gandhi's march. Another form was not to let houses to village and taluka officers and clerks or to serve them with notices to quit the houses. In some cases mamlatdars were served with such notices and in Shiroda in Ratnagiri district, where salt raids took place, clerks were threatened that they would have to quit their houses.

Another form of boycott was not allowing public servants to draw water from wells and refusing them bazar supplies. In some places this was a great evil. It affected the lowest paid Government servants,—people who had no spare money to buy supplies from towns at a distance and to lay by large stocks in advance so that they need not mind whether they got the supplies locally or not. In some places it was necessary for officers to raise funds in order to procure supplies for them from a distance in order that the ordinary sepoys and low-paid clerks shall be provided with the necessities of life.

Another form of boycott that was adopted was accompanied by threats to these people that false cases would be filed against them.

I wish now to give the House some information as regards the actual facts prevailing in Guzerat after the start of the civil disobedience movement. I have here in my hand a statement showing the number of resignations of village officers between the 6th of April and the 25th of April, 1930, in Guzerat, that is three weeks, at the very start of the civil disobedience movement. The four principal districts, chiefly affected by Mr. Gandhi's propaganda, were Ahmedabad, Kaira, Broach and the Surat districts. In these three weeks in Ahmedabad, 30 patels resigned out of 848, in Kaira, 110 patels resigned out of 617, in Broach, 91 out of 551, and in Surat, 242 out of 760. Then, as regards *talatis*, or village accountants, who are responsible for the collection of land revenue, though they have to perform many other executive duties in addition, in Ahmedabad, 141 *talatis* resigned out of 1,482, 669 out of 1286 in Kaira, in Broach, 173 out of 1,880, and in Surat, 22 out of 1,824, and in almost all these cases the resignations were forced by threats of boycott. It is quite true that in some cases the resignations were voluntary, but the fact that most of them were involuntary was clearly proved when many of these servants asked, soon after, to be retained in service, and many of them were taken back.

It is not necessary for me to go in detail into the construction of clause 4. I merely wish to point out its main features, namely, the nature of the intention which constitutes a constituent circumstance in the offence which is threefold; firstly, to harass a public servant in the discharge of his duties. That happened in Guzerat when village officers were not allowed to use wells, and their wives and children were threatened that they would not be allowed to get their bazar supplies; secondly, to force them to resign their posts. That happened, as I pointed out, in Guzerat right at the beginning of the civil disobedience movement by forcing the resignations of hundreds of village officers, and, thirdly, to cause a public servant to fail in his duty. That happened also in many cases, and the methods adopted to intimidate these persons was by refusing to let them be provided with supplies during the progress of this movement, or to let houses on reasonable terms, and so on. The clause then enumerates four kinds of action which it proceeds to penalise. These actions are first refusing to deal with a public servant, second refusing to let a house, etc., to him in the circumstances stated, third, refusing to render him customary service in the ordinary way of business and, fourth, withholding medical services ordinarily rendered. As regards the first, such actions were continually committed as I have shown. As regards the second, I have given examples of what occurred in Guzerat; as regards the third, the provision in the clause meets an obvious situation and the same is true as regards the provision about withholding medical services. I think it will be perfectly clear to the House that in these circumstances this clause is fully justified and that the House will not be doing its duty if it fails to put it on the Statute-book. (Applause from Official Benches.)

Raja Bahadur G. Krishnamachariar: Sir, I support this amendment, support it wholeheartedly, and not half-heartedly. I have gone through this clause very carefully. I must congratulate the previous speaker on the wealth of detail that he has placed before this House. There is, however, one point, and it is, I believe, an important point, which he, as an official, as the head of a District, ought to have realised by this time

[Raja Bahadur G. Krishnamachariar.]

and it is this. If you want to command the respect of a people, resort to Criminal Law is the last thing that you ought to take. I agree that no Government can be carried on successfully if the people have no regard for the official who has been put over them, to rule over them though the executive officers do allege that they are the servants of the people. In all official documents, towards the end, before they are signed by the official concerned, it is written "I have the honour to be, Sir, Your most obedient servant". It is not quite correct. It should be substituted by "Your most tyrannical master, your most pressing master", or leaving the adjectives alone "your master", and that would have been the more correct thing. However, taking them at their word, believing that they are our servants,—that is only in theory, but theory and practice do not always agree and particularly in the actual administration they very often do not agree,—anyway, if you want the respect of the people, do not have resort to the Criminal Law, do not wield the big stick before them. Indians are a set of grateful people. You simply have to show your sympathy to them, and though you may have an iron hand, you should put a velvet glove on it, and you will see that 99 per cent. of the Indian people will be so grateful that they will think that you are doing a very great thing for them

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Chair claims that it has always been sympathetic

Raja Bahadur G. Krishnamachariar: Sir, I was talking of the Government of India.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member was addressing the Chair in the second person.

Raja Bahadur G. Krishnamachariar: I beg your pardon. Unfortunately this is not the first time that I have been called to order and I have bowed to it. I beg to apologise for it and I assure you that when I say "you" I mean the Government of India through the Chair. What I submit, is, if you want to command the respect of the people, do not resort to the Criminal Law. If you have not learnt it already, learn it at least now. The clause says:

"Whoever, with intent to harass any public servant in the discharge of his duties, or to cause him to terminate his services, or fail in his duty, refuses to deal with him. . ."

Now, Sir, harassing a public servant is rather a difficult thing to prove except that you can presume it. You prove a certain act and you say that the result is that there has been harassment. That, I say, is not the correct way of drafting your law.

—"With intent to harass a public servant in the discharge of his duties"—

I will tell the House one or two facts in connection with harassing a public servant in the discharge of his duties. My Honourable friend, Sir Muhammad Yakub, was very rough to my friend, Mr. Raju, because he had come forward with an imaginary example. I suppose in the olden days he has read a book called the Indian Penal Code with Mayne's Commentaries. There is a section in the Penal Code which deals with obstruction to a public servant in the discharge of his duties. If you turn to Mayne's commentaries, he says that it would be scarcely credible, if it were not true, that you find a Government official prosecuting a respectable man for obstructing him in the discharge of his duty, because he would not lend his carriage for his own purpose. That is what

Mr. Mayne says. So that from declining to lend your carriage to declining to lend your money is not a very big step, and what Mr. Raju said is a matter which, though not capable of proof, is absolutely a matter within reasonable probability. There are Government servants who forget themselves so long as they are sitting in their chairs and drawing their pay. Whatever they want must be given, and if they are not given, then what happens? They are obstructed in the discharge of their public duties, and there is a section in the Penal Code, and this drastic clause places before them a power to prosecute the man.

That, Sir, is one particular instance. Another instance is this. A Government official goes at an unearthly hour to a certain village and he wants all sorts of conveniences. There are two or three houses there, old dilapidated buildings. The men are very unwilling to get up and welcome this, may I call, unwelcome guest at that unearthly hour. And early in the morning you will find the vials of his wrath poured upon the devoted heads of those two or three villagers, and immediately a prosecution might follow under this clause. If they have not committed any offence, at least there will be a charge that they have stacked their village sweepings in a certain place where it ought not to be and there will be at least a municipal or local board prosecution. My Honourable friend, the Home Member, whose speech I unfortunately missed in connection with the last amendment, is so nice in his speech that when you listen to him, you are almost inclined to abandon your point and agree with him. (Laughter.) Unfortunately, even he has not been able to read the fallacies of his own position. It is perfectly true that in the Madras Presidency we are comparatively in a peaceful position, but we know the official mentality. Human nature is human nature. What I protested against was not that this thing would happen in a certain remote village in the Madras Presidency, but if these conditions exist, wherever the official may be, human nature being what it is, he will do exactly the same thing, and I, therefore, beg of him not to give these large powers to these officials. We were told that it is the smaller official that would be put to difficulties. Perfectly true, because it is the smaller official who harasses the people a great deal. The bigger official does not harass; in fact, that is an argument in my favour. The higher you go in the official ladder, the greater is the courtesy they show to the people. The greater the courtesy, the greater is the gratitude they are able to extract from them and, therefore, there is no trouble. The lower the official, the greater is the impertinence which he brings to bear upon his dealings with the people, and the Indian people, although they are docile, although they are mild, yet, when they turn, they know exactly how to turn, and then the Indian official begins to whine and say they are boycotting him. Why don't they do it with the bigger official? Because these bigger officials do not exercise their power in the way in which the lower officials do. So far as Guzerat is concerned, I am perfectly willing to concede every point that my Honourable friend on the other side has made today. But Guzerat is not the whole of India.

An Honourable Member: What about the Andhra districts in the Madras Presidency?

Raja Bahadur G. Krishnamachariar: I do not know exactly about it until my Honourable friend, Mr. Sri Hari Rao Nayudu, gives us details in the Andhra country. Wherever you go, give the smaller official a little chance and he always stings; there is an old Tamil proverb which says, give the scorpion a chance and he will sting every third hour.

An Honourable Member: What about cobra?

Raja Bahadur G. Krishnamachariar: A cobra does with you once for all (Laughter.) The clause says:

"...or to cause him to terminate his services, or fail in his duty."

I have already objected to the word "fail". I am afraid they won't change the word. Some day when it comes before a Court, they will find that the Judges say that they do not understand what it is, and then they will come up here hurriedly and try to amend it. I hope they will at least then learn a lesson if they do not listen to me now, because I do not understand English as well as they do, and, therefore, what I say may be brushed aside. The most important part of the clause is:

"...or to let on reasonable rent a house usually let for hire, or land not being cultivated land to . . ."

I shall reserve "customary services" for another occasion. I will tell you a little bit of incident that happened. There was a big official who was camping in my village. There were only half a dozen houses, and one of the best houses . . . (An Honourable Member: "Is it in Hyderabad?") I know Hyderabad a little bit, and we do not call Hyderabad a village.

Mr. D. K. Lahiri Ohaudhury: The speech is interesting. Will you please speak up a bit?

Raja Bahadur G. Krishnamachariar: Thank you. There were only three or four houses and the best house had been selected for the official. Unfortunately for me I had a house which was a little better than the house which had been selected for the official. This official insisted that he should enter my house when I was living there, mind you. (Laughter.) I declined his request with thanks. What happened? I shall probably be doing him an injustice because he is not here to defend himself, but it is a matter that would not bear repetition in a respectable Assembly like this. That, Sir, is the official mentality. My Honourable friend, Sir Muhammad Yakub,—I do not know what sort of place he comes from—(Laughter.)—I want every one of these gentlemen who support this proposal to go and live in the mufassil, to go and disregard the official, that is to say, not insult him, but leave the official alone to do his duty and do not consider that there is an official in your midst. Go on like that for three days, and if, on the fourth day, his wrath does not come down upon you, take it from me, you may catch hold of my ear and wring it off. (Laughter.) My friend, Sir Muhammad Yakub, may not agree with me, but what I do say is perfectly right.

Sir Muhammad Yakub: My house is not usually let on hire. Probably your house was let on hire.

Raja Bahadur G. Krishnamachariar: As regards that, if you had lived in a cantonment, you would have understood the meaning of the expression. (Laughter.) I have had to do with cantonments for 20 years. I was a lawyer practising in Secunderabad. I know exactly how the words "usually let on hire" are interpreted when the house is wanted for Government purposes. We shall not discuss it here. If anybody challenges what I am saying, I shall within a week produce certified copies of the records to fully justify what I say. I never speak without chapter and verse. So the difficulty is this. I do not want to let my house on hire, but this gentleman comes along and says that communal

trouble will crop up as it has done in my town in Mannargudi in the Tanjore District. There is a tank. On all sides of it Brahmmins live. A Muhammadan police inspector insisted upon getting into a certain house which was vacant in the midst of those houses. In the whole of that town, he said, there was not a single house available and so he wanted to occupy that house. Fortunately better counsels prevailed and, after three days' discussion in which I also joined, we persuaded him to go to some other place, as there will be great deal of trouble if he got into that place. It is not improbable that these things would happen. I submit, for Heaven's sake, for the sake of that very peace which you seek, and for the sake of the very respect for law which you want to inculcate in the people, don't make laws which would be harassment to the people under the cover of saving the officials from being harassed. My friend here is very angry that I have been conferred the title of Raja Bahadur. I am quite prepared to resign it in his favour if he would accept it. (Laughter.)

Now, I come to the customary service. We have been fighting what we call the *begar* system even in a place like Hyderabad. As for corruption which Honourable Member always applied to Hyderabad, we did not have committees to inquire into the existence of the leases of corruption there, although in three provinces in British India such committees were set up to inquire how far corruption exists there. That is another story. This customary service is a dangerous thing. You come at dead of night, wake up the *dhobi* and give him three huge bundles to carry and ask him to come back the next morning after delivering it at destination. That is one of the customary services. It is pressed even today. You go and live in a village for three days and you will find it out. It is no good challenging me. I am quite prepared to admit that the official does require every help in his tour, because presumably he tours for the benefit of the people. Therefore, he must be helped, but what is this customary service. The official comes and asks for milk. I have half a seer of milk in my house for my sick child. He says: "No. I must have it". If I don't give, tomorrow there will be a prosecution under this clause. I shall not go into further details. These are all difficulties. I am talking from my experience of these things. I am not talking from my imagination. What I say is this. You are going to ensure respect from the villager by saying that you were going to prosecute him. I say, don't do that sort of thing.

I do not want to take up much of the time of the House except to say a word about clause 2. It sounds very big, this sanction of the Local Government. It is perfectly good on paper. You say "what more do you want. There is the Local Government which is a responsible body and when they say, this is a fit case for prosecution, what more safeguard do you require?" I do not agree with my friend, Mr. Jog, when he says that directly a Local Government gives sanction, the Magistrate will convict the accused person. I do not go so far as that. There are Magistrates even of the lowest grade who stand up against false cases and, even at the risk of their appointment, they make very severe strictures against the prosecution, where they deserve it. But the sanction business is quite different. In the Madras Presidency, there was a very important and sensational press prosecution. The case was committed by the Chief Presidency Magistrate to the Madras High Court. Objection was taken that there had not been proper sanction. They all tried to sit upon the counsel for the defence by saying "here is the seal of the

[Raja Bahadur G. Krishnamachariar.]

Government, the signature of the responsible Secretary. What more do you want?" This gentleman said: "No. It is not the action of the Government. It is the action of one of the members of the Government who generally deals with this portfolio by an arrangement made by the Governor". That statement was made by the counsel for the defence and the prosecution was not able to deny it. The Court adjourned and, the day after the adjournment, the counsel for the prosecution comes and says that that was so. The counsel for the defence said: "That is not all. The Member has simply signed the paper without reading what was written, because there were two contradictory statements. One man said, there ought to be a prosecution. Another man said, there ought to be no prosecution. Then, at the end of it all, there was the signature of the Member". The counsel for the defence asked which was good and which was bad. The whole thing ended in a muddle. The prosecution was withdrawn and another was started. Is this the safeguard which is going to save innocent people from being prosecuted. For instance, the other day in the Andhra Desa, of which my friend, Mr. Sri Hari, knows a good deal, there was a prosecution against a man, because he wore a Gandhi cap and appeared on the platform of a railway station. There

5 P.M. was a question asked as to the sanction, from the man who gave the sanction, and it was said that "the police wanted the sanction, and we gave the sanction". Sir, that is the mentality with which sanctions are given. There is absolutely no safeguard. I do not say that it always happens. There are, of course, conscientious people. But what I say is that there is a probability of these things happening. So I say: "Bear in mind the somewhat harsh nature of the clause together with the so-called safeguard", and I say "remove this clause".

Sir, before I sit down, I want to say one thing. In connection with the Bill, which I moved some time ago to amend the Sarda Act, the Honourable the Home Member told me, "Why not wait for a few months? Your expanded Assembly is going to come. You will get your own Government. Fight all these Acts before your own Government, and if they will not have them, let them repeal them". Now I want to bring the analogous argument against my friend, the Home Member, now. Whom does the threatened boycott affect? It will affect the official of the future Government. It does not affect the present-day British official, because the British Government are going, as they say, to hand over, the power to us. So, why not wait till then? Why are you in such a great hurry so that all these nice little repressive Bills should be passed? Who wanted these things? Did those who are charmed of democracy—and I am not charmed of the sort of democracy they want to give us if at all they do—ask for them? I do not think so. Therefore, I would very respectfully suggest, before I sit down, that the Honourable the Home Member should leave things alone. Let the new Government, which is promised to us, if they find that they cannot go on, frame such drastic laws and more drastic ones if they choose, as the Irish Free State had to do, and leave things alone. That is what I say to them.

The Assembly then adjourned till Eleven of the Clock on Thursday the 24th November, 1932.

LEGISLATIVE ASSEMBLY

Thursday, 24th November, 1932

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

SHORT NOTICE QUESTION AND ANSWER

STRIKE ON THE MADRAS AND SOUTHERN MAHRATTA RAILWAY.

Mr. M. Maswood Ahmad: Will Government be pleased to state the full facts about the strike on the Madras and Southern Mahratta Railway?

The Honourable Sir Joseph Bhoré: The facts are as follows:

Last year the bulk of the staff retrenchment on this Railway was effected by voluntary retirements on special terms which were regarded by the Court of Enquiry as liberal and the number discharged by June, 1931, in the Mechanical Workshops at Perambur, was 109 workmen. In July, 1931, as a result of representations made by the All-India Railwaymen's Federation and, in consultation with the Agents of Railways, it was decided to suspend further discharges until the end of October, when it was intended to review the position again. This review was made by the Agent, Madras and Southern Mahratta Railway, who informed the Madras and Southern Mahratta Railway Union in November, 1931, that "after taking into consideration the following factors, namely, (1) normal wastage, (2) stoppage of recruitment, (3) the number of men nearing superannuation, (4) the working of short time which may be necessary in individual shops, there would be a surplus of 172 workmen in the Perambur shops whom it might be necessary to discharge, but that, to 25 of them, it was intended to offer vacancies in the Hubli Workshops. It was made clear that, in addition to this surplus, there were 110 workmen who had been withdrawn from the Workshops and placed on temporary work connected with a remodelling scheme and that this number of workmen would also be discharged on completion of the said scheme.

2. In January, 1932, with reference to an enquiry made of the Railway Administrations by the Railway Board as to the staff (a) then surplus, and (b) likely to become surplus in the near future, after allowing for wastage, stoppage of recruitment and assumed short time working in the workshops up to 1½ days a week, the Agent, after allowing for these factors, reported that there would be no surplus in Workshop staff on this basis, but that a surplus of 110 Workshop men would occur on completion of the remodelling scheme.

3. On the 6th June, 1932, the Government of India issued a communiqué announcing their conclusions on the recommendations of the Court of Enquiry appointed last year to investigate certain matters connected with staff retrenchment on Railways. This communiqué also permitted the resumption of discharges which had been suspended since July, 1931. The Agent then made a fresh estimate of surplus staff in

August, 1982, which fixed the surplus at 474 men. This involved a surplus of more than 20 per cent. in some shops. On the 19th September, the Administration offered the workmen one or other of two courses, namely (1) either to discharge 66 men in order to bring down the surplus to a maximum of 20 per cent. in any one shop and retain the remaining surplus by working the necessary amount of short time, or (2) to discharge all surplus men. For 40 out of 66 to be discharged under the first alternative, appointments in the Traffic Department were also offered.

On the 7th October, on further consideration, the Administration offered to retain all the 66 men marked down for discharge and absorb them by increase of short time, keeping the limit of short time in any one shop at a figure not exceeding 20 per cent. of normal working time, and the workmen were asked whether they agreed to increased short time in preference to discharges. They replied that they were agreeable to the principle of short time provided it meant re-instatement of 93 out of 109 men discharged in the previous year (the remaining 16 had reached the age of superannuation) and absorption of really surplus staff. They also asked for a discussion of the alleged surplus by the Administration with the Union.

On the 13th October, the Agent informed the staff that he declined to accept the demand for the re-instatement of the 93 men discharged last year. He added that the strength required in each shop was for the Administration to decide on the basis of the actual work to be done and that, as the staff had agreed to the principle of short time rather than discharge, short time would be increased in certain shops and the staff were advised of the short time to be worked in each shop. Accordingly, increased short time was introduced from the 21st October, and under this arrangement no staff whatever would have been discharged. The same day, however, the Union resolved to call a strike from the morning of the 24th October.

4. The total surplus, if full normal working were restored, would be approximately 700 employees, including 110 men who would become surplus on the completion of the remodelling scheme.

5. In his statement, dated the 26th October, the President of the Madras and Southern Mahratta Railway Union, observed that:

"in fact the whole issue on which the present dispute has arisen is on the fact that by not taking the 93 men and not having only that much short time as is necessary to cover the really surplus staff (even within the limits accepted by the Railway on paper) the Administration has broken its own declared promise."

And, in a letter, dated the 11th November, 1982, from the President of the All-India Railwaymen's Federation to the Railway Board, the following are stated to be the issues involved:

"(i) that the present figures of alleged surplus on the basis of Agent's statements before the strike are excessive and self-contradictory;

(ii) that the men and the Administration having been agreeable to work short time up to 20 per cent. and also in view of the fact that most of the shops are not working to this limit and even accepting the basis of the latest short time announced and introduced on 21st October, 1982, by the Administration, the 93 out of 109 compulsorily discharged men under retrenchment last year could, and, therefore, should, be absorbed within the prescribed limits."

6. The attitude of the Agent, Madras and Southern Mahratta Railway, is this. Surplus staff must vary from time to time according to the

character and amount of work and plans for its execution and its determination must rest with the Railway Administration, that short time working has its drawbacks, both administrative and economic, but that, in order to minimise hardship, the Railway Administration was willing to have recourse to this method to avoid further discharges. The Agent made it clear that he was not prepared to increase short time with the object of re-instating the men discharged last year. The Government of India are satisfied that no promise was made or implied that the men discharged last year would be re-engaged, and that the offer of the Agent to work short time up to a maximum of 20 per cent. in each shop was solely with the desire to avoid any further discharges. The working of short time up to such a limit is not a normal feature of workshop practice and, except as a temporary expedient, has serious drawbacks.

7. The strike commenced on the morning of the 24th October, 1982, in the Perambur Workshops, and spread to the Arkonam Engineering Workshops on the 3rd November, 1982, and to the Hubli Mechanical Workshops on the 19th November, 1982. According to the latest advices received from the Agent, the approximate number on strike and at work is as under:

	On strike.	At work.
Perambur Mechanical Workshops ..	5,294	354
Electrical Workshops and services at Perambur.	450	35
Arkonam Engineering Workshops ..	748	96
Hubli Mechanical Workshops ..	911	1,884

Mr. M. Maswood Ahmad: Is it a fact that about 2,000 employees of the Hubli Railway Workshop downed the tools up to the 19th November as has been published by the Federation?

The Honourable Sir Joseph Bhoré: Well, Sir, I have given the figures received up to last night.

Mr. M. Maswood Ahmad: Have Government seen the controversy about the notice given by the strikers to the Agent who says that the notice in question does not comply with the requirements of section 15 of the Trade Union Act?

The Honourable Sir Joseph Bhoré: Does my Honourable friend refer to any notice given by the Agent?

Mr. M. Maswood Ahmad: Notice given by the strikers to the Agent.

The Honourable Sir Joseph Bhoré: I have not seen it.

Dr. Ziauddin Ahmad: What was the conclusion arrived at during the discussion between the Railway Board and All-India Railwaymen's Federation and the National Federation in June last on the question of railway workshop?

The Honourable Sir Joseph Bhoré: I do not quite follow what my Honourable friend is referring to.

Dr. Ziauddin Ahmad: A deputation of the Railwaymen's Federation and National Railway Federation waited upon the Railway Board in June, 1982, and they had some conversation about retrenchment in workshops. I should like to know what was the conclusion arrived at in this conversation about retrenchment in workshops?

The Honourable Sir Joseph Bhoré: If my Honourable friend would give me notice, I shall be able to give him a full answer; but I am afraid that I am not very well conversant with what really took place as I was then away.

Dr. Ziauddin Ahmad: This is rather an important point. If I remember aright, the Federation suggested that workmen should be given compulsory leave for one month in a year, that is, they should draw salary for eleven months in the year and, in that case, no retrenchment was necessary. May I ask, if this was the agreement arrived at, and why was it not given effect to?

The Honourable Sir Joseph Bhoré: Possibly my Honourable friend is right, but he will see from the answer I have given that the Railway Administration are making use of all means in order to prevent discharges.

Dr. Ziauddin Ahmad: Was this particular method also followed which was agreed to between the Federation and the Railway Board?

The Honourable Sir Joseph Bhoré: I will look into the matter.

Mr. K. P. Thampan: Is the strike confined only to the workshops?

The Honourable Sir Joseph Bhoré: Yes; I have enumerated them in my reply.

Mr. K. P. Thampan: Sir, may I know whether the Agent of the Madras and Southern Mahratta Railway is taking adequate steps to prevent the strike from extending to other branches, such as the traffic department, etc.?

The Honourable Sir Joseph Bhoré: I have no doubt that the Agent of the Madras and Southern Mahratta Railway is fully cognisant of his responsibilities in this matter and that he has taken care to see that these are fully discharged.

Mr. M. Maswood Ahmad: Will Government be pleased to see the terms of the notice given by the strikers to the Agent, because that is a very important point? The Agent says that the notice does not come under section 15 of the Trade Union Act, while the strikers say that it does come under that section. This is rather an important point. Will Government please look into the terms of the notice?

The Honourable Sir Joseph Bhoré: As a matter of fact, in my answer I have given the real issue as referred to both by the President of the Madras and Southern Mahratta Railway Union and by the President of the Federation. Their communiqués clearly state the issues in dispute.

Mr. M. Maswood Ahmad: I want the Railway Board to see the copy of that notice and examine whether it comes under the Trade Union Act or not. That is my point.

The Honourable Sir Joseph Bhoré: I do not know that that is really a vital point, but I will certainly look into it.

Dr. Ziauddin Ahmad: What I am just going to ask, arises out of the supplementary question that has been put and, if the Honourable Member so pleases, he can answer it. Will the Honourable Member please say whether he does not think that at present there is a great deal of extravagance in the duplication of Workshops? Each and every Railway Administration wants to have its own Workshop and even in Bombay, there are two Workshops side by side and they employ very expensive machinery, while, as a matter of fact, one Workshop would suffice. The same is the case practically all over India. Is it not desirable to consider the policy of reducing the number of Workshops as a measure of retrenchment, and getting the work of one quality carried out in one Workshop. The repairs of carriages may be done in the nearest Workshop and not sent to the Workshop of the Railway to which the carriage belongs?

The Honourable Sir Joseph Bhoré: I am sure my Honourable friend does not expect me to pronounce, in reply to a supplementary question, an opinion on a matter of policy and a subject of such great importance. I have no doubt that this question, which requires looking into, will undoubtedly receive attention.

Mr. M. Maswood Ahmad: Will the Honourable the Home Member please enlighten the House whether this strike will come under the provisions of clause 3 of the Ordinance Bill?

The Honourable Mr. H. G. Haig: Sir, I have not followed very closely the conditions of this strike. But I think the point might possibly be answered by my Honourable friend, the Law Member.

The Honourable Sir Brojendra Mitter: When this Bill is passed into law, it will be time enough to consider that point.

Mr. M. Maswood Ahmad: I was referring to the Ordinance Bill which is under discussion in the House.

The Honourable Sir Brojendra Mitter: But let us pass the Bill first.

Mr. M. Maswood Ahmad: Will this Bill, if passed, effect the trade union activities in India?

The Honourable Sir Brojendra Mitter: I cannot anticipate the form in which the Bill will be passed, and when it is passed, there will be time enough to consider that question.

Sir Hari Singh Gour: In order to enable Honourable Members on this side of the House to form their own judgment, I think it is up to the Honourable the Law Member to enlighten them as to what the practical effect of the enactment will be. As a matter of fact, in the general debate, I raised that point in connection with that clause.

The Honourable Sir Brojendra Mitter: That would be relevant when we discuss this Bill and not in a supplementary question.

Sir Hari Singh Gour: In a supplementary question, it is perfectly permissible, with due deference to the Honourable Member, to ask as to what will be the effect of a pending legislation on the activities of trade unions in this country.

The Honourable Sir Brojendra Mitter: Ordinarily, a special Act controls the general Law. If there be a special Act dealing with strikes, that Act will control the general law of the kind we are discussing.

STATEMENTS LAID ON THE TABLE.

The Honourable Mr. H. G. Haig (Home Member): Sir, I lay on the table a statement giving the information promised in reply to part (a) of starred question No. 452, asked by Sardar Sant Singh on the 19th September, 1932.

PERSONS HOLDING TEMPORARY APPOINTMENTS IN THE INDIAN STORES DEPARTMENT AND IN THE OFFICE OF THE CONTROLLER OF PRINTING AND STATIONERY.

*452 (a).

Department or Office.	Number of men who qualified in 1926.	Number of men who qualified in 1929.	Period of service.
Office of the Controller of Printing and Stationery	..	1	4 years and 5 days.
2. Indian Stores Department	1	..	3 years and 1 month.

The Honourable Sir George Schuster (Finance Member): Sir, I lay on the table:

(i) the information promised in reply to supplementary question to starred question No. 983 asked by Sir Leslie Hudson on the 8th November, 1932; and

(ii) the information promised in reply to unstarred questions Nos. 97—99 asked by Kunwar Hajee Ismail Ali Khan on the 27th September, 1932.

UTILISATION OF THE PETROL TAX ON THE DEVELOPMENT OF ROADS.

*983. The proportion of the surcharge relating to the 2-anna share of the petrol duty payable to the Road Fund is also being credited to that Fund.

DISCHARGE OF TEMPORARY EMPLOYEES OF THE CURRENCY OFFICE, LAHORE.

97. (a) No. Only a part of it was discharged.

(b) Hindus 20
Muslims 13

(c) Yes.

(i) General side 4 Treasurer's side 24

(ii) Hindu 1 Hindus 18
Muslims 2 Muslims 2

(d) Yes.

(i) Hindus 13
Muslims 2

(ii) The information is not available. Temporary men are engaged whenever required and sent away when not wanted.

MUSLIM STAFF IN THE CURRENCY OFFICE, LAHORE.

98. (a) 123

(b) The number of posts held by Muslims and Hindus in each Category given below:

	Hindus.	Muslims.
Currency Officer	1	..
Assistant Currency Officer	1	..
<i>General Department.</i>		
Superintendents	2	..
Assistant Superintendent	1	1
Selection grade clerks	2	1
Clerks in time-scale	12	9
Record clerk	..	1
Daftry	..	1
Jamadar and Chaprasi and Coolies, etc.	8	1
Total	25	14

Treasurer's Department.

Treasurer	1	..
Assistant Treasurers	2	..
Selection grade clerks	3	..
Clerks in time-scale	23	15
Shroffs	9	..
Daftries	1	2
Mechanic	..	1
Pressman	..	1
Chaprasies and coolies, etc.	17	3
Total	56	22

(c) Yes.

(d) and (e). Government have already issued general instructions for the guidance of heads of departments. No special orders are considered necessary.

SUPERSESSION OF MUSLIMS BY CERTAIN HINDUS IN THE CURRENCY OFFICE, LAHORE.

99. (a) and (b). Yes.

(c) These three Hindu clerks and three Muslim clerks superseded Hindu and Muslim seniors.

(d) No. The supersession was on general grounds of capacity.

Mr. H. A. F. Metcalfe (Foreign Secretary): Sir, I lay on the table the information promised in reply to starred questions Nos. 1263--1265 asked by Seth Haji Abdoola Haroon on the 16th November, 1932.

MEMBERS OF THE QUETTA MUNICIPALITY.

*1263. (a) Yes.

(b) and (c). The total number of members of the Quetta Municipal Committee is 38. Of these five are natives of Baluchistan, five are officials and the remainder though of different nationality, are all local men and residents of Quetta Municipality, many of whom have been residents since their birth.

FEASIBILITY OF PROMOTING THE QUETTA MUNICIPALITY TO AN ELECTED BODY.

*1264. (a) Nominations to membership of the Quetta Municipality are made under Section 3 of the Quetta Municipal Laws of 1896, by the Honourable the Agent to the Governor General and Chief Commissioner in Baluchistan, to whom recommendations are submitted through the usual official channels.

(b) Government are prepared to consider the matter if and when a local demand for such action manifests itself. All sections of Quetta Municipal population are already adequately represented on the Committee.

APPOINTMENT OF LOCAL PEOPLE IN THE STAFF OF THE QUETTA MUNICIPALITY.

*1265. Practically all employees of the Quetta Municipality are local in the sense that they ordinarily reside within municipal limits. Tribesmen of Baluchistan whether residents within or without Municipal limits are eligible for municipal employment if they possess the requisite qualifications.

Mr. G. R. F. Tottenham (Army Secretary): Sir, I lay on the table:

(i) the information promised in reply to starred question No. 1004, asked by Khan Bahadur Haji Wajihuddin on the 8th November, 1932; and

(ii) the information promised in reply to part (b) of unstarred question No. 111 asked by Sirdar Sohan Singh on the 27th September, 1932.

GRANT OF DISABILITY PENSION TO JAMADAR AHMAD BAKSHI.

*1004. (i) The clinical notes mentioned are merely requests from the Officer Commanding the Indian Military Hospital, Manzai, asking the Brigade Laboratory at Bannu to make certain examinations. No examination could be made on receipt of the first note, and the Laboratory report on the note of the 30th May, 1926, was negative.

(ii) I have seen the proceedings of the Medical Board held on the 28th March, 1927. In the opinion of the Board the Jamadar was then suffering from a disability contracted on field service, but there is nothing in the proceedings to show that he was not in normal health while in Waziristan in 1926, and there is no record of his having been admitted to Manzai hospital in that year.

ALLEGED RUDE BEHAVIOUR OF THE PRESIDENT, CANTONMENT BOARD, LUCKNOW.

111. (b) At a meeting of the Lucknow Cantonment Board on the 7th June last, the President was constrained to declare that he would have to adjourn the meeting if a certain member persisted in making irrelevant remarks. In consequence of information that the member was not satisfied with his ruling, the President at the next meeting stated that no one regretted the incident more than he did, but hoped that members would endeavour to confine themselves to relevant remarks and criticism, in order to facilitate the speedy conduct of business. The member who was the cause of the incident thanked the President for this statement. At the meeting of the Board held on the 4th October, the Board passed two resolutions, one expressing resentment at the action of unknown persons in reporting the incident to the press and the other expressing the Board's appreciation of the President's work during his tenure of office.

Mr. P. R. Rau (Financial Commissioner, Railways): Sir, I lay on the table:

(i) the information promised in reply to part (e) of starred question No. 940 asked by Mr. A. H. Ghuznavi on the 7th November, 1932;

(ii) the information promised in reply to unstarred questions Nos. 130 and 181 asked by Sir Zulfiqar Ali Khan on the 27th September, 1932;

(iii) the information promised in reply to starred question No. 783 asked by Mr. M. Maswood Ahmad on the 26th September, 1932; and

(iv) the information promised in reply to starred question No. 93, asked by Rao Bahadur M. C. Rajah on the 7th September, 1932.

COLLIERIES OWNED BY THE STATE AND COMPANY RAILWAYS.

*940(e).

Colliery.	Contractor.	Rate per ton.	Duration of contract.
		Rs. A. P.	
Kargali Quarry .	Madhavji Mepa .	1 3 0	31st March 1934.
Kargali Quarry .	Ramji Karman .	1 3 0	31st March 1934.
Kargali Quarry .	M. Simon .	1 3 0	31st March 1934.
Kargali Pits .	Rambilas Singh .	1 9 0	31st March 1934.
Kargali Incline .	M. Simon .	1 11 0	15th November 1934.
Bhurkunda Incline .	H. Vasantray .	1 14 0	31st March 1934.
Jarangdih Pits .	Karamchand Thapar .	2 0 0	12th April 1935.
Jarangdih Quarry/ Incline.	Rambilas Singh .	1 8 0	17th June 1934.
Talcher Pits .	N. H. Ojha .	2 0 0	12th April 1935.
Giridih Deep Pit .	Lachminarain Sing.	On sliding scale from Rs. 1-5-6 to Rs. 1-8-0 per ton dependent on output.	No stipulation in the agreements regarding the period of contract and the quantity of coal to be raised per month but there is a clause in each agreement whereby the con- tract can be ter- minated by giving one month's notice.
Giridih Joktiabad Pit	Madanlal Sarawgi .	On sliding scale from Rs. 1-1-0 to Rs. 1-3-6 per ton dependent on out- put.	
Sariabad and Bit- garh.	Khodabux Meah .	Rs. 1-8-0 including haulage and loading.	
No. 1 Jubilee Pit .	Harilal .	Rs. 1-4-9 per ton.	
16A pit .	Madari Meah .	Rs. 1-8-0 including haulage and load- ing.	No stipulation in the agreements regarding the period of contract and the quantity to be raised per month but there is a clause in each agreement where- by the contract can be terminated by giving 6 months notice.
Bokaro Quarry 1 .	Jatasankar Dossa .	Rs. 1-3-0 loaded into wagons.	
Bokaro Quarry 2 .	Kripasankar Warrah	Rs. 1-3-0 loaded into wagons.	
Bokaro Quarry 3 .	R. A. Sarge .	Rs. 1-3-0 loaded into wagons.	
Sawang Quarry .	Probhulal Pathak .	Rs. 1-3-0 loaded into wagons.	
Sawang Incline .	Probhulal Pathak .	Rs. 1-9-0 loaded into wagons.	
Argada .	Ladha Singh .	On sliding scale from Rs. 1-3-0 to Rs. 1-8-0 per ton dependent on out- put. Rates include charges for rais- ing, removing of overburden and stone bands as well as lead.	

APPOINTMENTS BY COMMUNITIES OF CLERICAL AND DAILY-RATED STAFF IN THE ELECTRICAL BRANCH OF THE NORTH WESTERN RAILWAY.

130. (a) Statement "A" below contains the necessary information.
(b) The reply is in the negative.

STATEMENT "A".

Statement showing (i) the number of appointments made from 1st January, 1931, upto August, 1932, in the Electrical Branch, North Western Railway, and (ii) the number obtained through Central Labour Exchange, North Western Railway, Mcghulpura.

Community.	Clerical staff.		Daily-rated staff.					
			Skilled Labour.		Unskilled Labour.		Total.	
	Perma- nent.	Tempo- rary.	Perma- nent.	Tempo- rary.	Perma- nent.	Tempo- rary.	Perma- nent.	Tempo- rary.
1	2	3	4	5	6	7	8	9
I.	No.	No.	No.	No.	No.	No.	No.	No.
Hindus .	1	3	3	4	3	2	7	9
Muslims .	..	1	2	6	10	9	12	16
Sikhs .	..	..	1	1	5	1	6	2
Anglo- Indians.	..	..	..	3	..	..	..	3
Total .	1	4	6	14	18	12	25	30
II.								
Number ob- tained through Central Labour Exchange.	1	3	5	3	..	8	6	14

APPOINTMENT OF MR. KUNDAN LAL KAPUR AS CHIEF CLERK IN THE ELECTRICAL BRANCH OF THE NORTH WESTERN RAILWAY.

131. Mr. Kundan Lal Kapur was transferred in 1928 from the Headquarters Office, North Western Railway, Lahore, where he was officiating in grade III (100-5-140) to the office of the Chief Electrical Engineer on promotion as Accounts Clerk in grade IV (160-10-200) and was in 1930 promoted as Head Accounts Clerk in grade VI (285-15-330) and became Chief Clerk in that office on the same rate and scale of pay.

Appointments to the posts of Accounts Clerks are made from among staff qualified in the accounts examination and Mr. Kundan Lal's promotion to grades IV and VI as Accounts Clerk and Head Accounts Clerk, respectively, did not involve supersession of any qualified Muslim Clerk.

ALLEGED INJUSTICE TO RETRENCHED MUSLIMS IN THE DELHI DIVISION OF THE NORTH WESTERN RAILWAY.

*783. (a) and (b). The number of subordinates and inferior servants of the various communities from amongst those discharged and demoted under the economy campaign prior to 31st July, 1932, on the Delhi Division, who have been reappointed or promoted upto 1st September, 1932, is given below:

	Europeans.	Anglo-Indians.	Hindus.	Muslims.	Sikhs.	Indian Christians.	Total.
Reappointed—							
Subordinates			6	5	1	..	12
Inferior servants		1	180	113	7	..	301
							313
Promoted—							
Subordinates			9	14	3	..	26
Inferior servants			12	10	1	3	26
							52
Grand total							365

(c) The Agent, North Western Railway, has issued instructions to the Divisional Superintendents that the excess in the number of Muslims discharged should be adjusted when recruitment is resumed by recruiting a correspondingly larger number of Muslims.

(d) The reply is in the affirmative.

(e) Yes.

(f) The Junior Assistant Personnel Officer, Central Labour Exchange, endeavours in the first instance to meet demands from a divisional or other office by the transfer of employees in service in other divisions or offices who are surplus to requirements. These transfers are made without reference to communal consideration. If no surplus men are available, the demand is met by appointment of suitably qualified men who were discharged on reduction of establishment. The selections for such appointment are made on the basis of seniority with due regard to standing orders on the subject of the representation of the various communities.

(g) Yes.

CO-ORDINATION OF RAILWAY VERSUS BUS TRANSPORT SYSTEM.

*93. The East Indian Railway had an arrangement with the Calcutta Tramways Company whereby Rail-cum-bus monthly tickets were issued. This arrangement was in force from 1st June, 1929, to 30th June, 1931, when the Tramways Company buses were withdrawn. The scheme was of no special advantage to the railway.

The Assam Bengal Railway has an arrangement with the Commercial Carrying Company of Shillong which operates motor buses between Gauhati and Shillong. Statements showing the financial results for the last 3 years of the traffic interchanged between the railway and the road transport agency are appended.

ASSAM-BENGAL RAILWAY COY., LTD.

(Incorporated in Great Britain.)

'A'.

(1) Statement of passenger traffic (interchanged at Gauhati) booked between Shillong and A. B. Railway Stations.

Commercial Carrying Co.'s share of earnings.										Assam-Bengal Railway share of earnings.										
1st Class.		2nd Class.		Int. Class.		3rd Class.		Total.		1st Class.		2nd Class.		Int. Class.		3rd Class.		Total.		
No.	Rs.	No.	Rs.	No.	Rs.	No.	Rs.	No.	Rs.	No.	Rs.	No.	Rs.	No.	Rs.	No.	Rs.	No.	Rs.	
1929-30	*125	2,750	*206	2,543	*127	1,146	*288	1,532	746	7,981	*126	5,450	*208	3,988	*129	900	*283	2,035	746	11,373
1930-31	*183	4,037	*164	2,056	142	1,278	338	1,851	828	9,222	*164	5,817	*183	3,508	142	1,005	338	2,141	828	12,771
1931-32	*138	3,036	*125	1,569	*139	1,251	*328	1,721	730	7,577	*125	4,704	*142	2,854	*141	1,128	*322	2,008	730	10,784

(2) Statement of passenger traffic (via Pandu and Gauhati) booked between Shillong and E. B. Railway and beyond (across A. B. Railway).

1929-30	1	22	10	125	*14	131	*71	367	904	645	1	10	4	*22	3	*63	8	964	16
1930-31	4	88	2	25	18	162	45	234	694	509	4	3	2	1	18	3	45	6	694
1931-32	..	..	7	88	..	..	28	146	35	234	..	..	7	2	28	4	35	4	35

(3) Statement of passenger traffic (via Gauhati and Tinsukia, Gauhati and Thibbar or Mariani) booked between Shillong and D. S. Railway or J. P. Railway (across A. B. Railway).

1929-30	27	594	5	63	14	126	68	370	114	1,153	27	1,195	5	124	14	116	68	447	114	1,882
1930-31	12	264	3	38	4	36	72	374	91	712	12	486	3	67	4	33	72	464	91	1,050
1931-32	20	440	9	113	*5	45	*71	379	105	977	20	874	9	196	*8	58	*68	451	105	1,679

*The difference in number shown against each class is due to passengers having travelled in two different classes on A. B. Railway and C. C. Coy.'s services on through tickets issued to them.

ASSAM BENGAL RAILWAY COY., LTD.
(Incorporated in Great Britain.)

'B'.

Statement of Luggage and Parcels Traffic.

Year.	PARCELS.						
	Interchanged traffic between A. B. Ry. & C. C. Co. (<i>via</i> Gauhati).		Traffic booked between Shillong & E. B. Ry. and beyond across A. B. Ry. (<i>via</i> Pandu & Gauhati).		Traffic booked between Shillong & D. S. or J. P. Ry. across A. B. Ry.		
	A. B. Ry. share.	C. C. Co. share.	A. B. Ry. share.	C. C. Co. share.	A. B. Ry. share.	C. C. Co. share.	
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	
1929-30	.	.	2,482	2,853	Nil	1,174	912
1930-31	.	.	2,615	2,858	Nil	942	804
1931-32	.	.	2,436	2,922	Nil	779	853
LUGGAGE.							
1929-30	.	.	108	93	..	..	..
1930-31	.	.	108	118	..	..	148*
1931-32	.	.	672	718	..	..	..

* Military traffic charged for at public rate on Motor service.

LEGISLATIVE ASSEMBLY. [24TH NOVEMBER 1932.]

ASSAM BENGAL RAILWAY COY., LTD.
(Incorporated in Great Britain.)

C'.

Statement of Goods Traffic.

Year.	Interchanged traffic between A. B. Ry. & C. C. Co. (via Gauhati).			Traffic booked between Shillong & E. B. Ry. and beyond across A. B. Ry. (via Pandu & Gauhati).			Traffic booked between Shillong & D. S. or J. P. Ry. across A. B. Ry.		
	Maunds.	A. B. Ry. share.	C. C. Co. share.	Maunds.	A. B. Ry. share.	C. C. Co. share.	Maunds.	A. B. Ry. share.	C. C. Co. share.
		Rs.	Rs.		Rs.	Rs.		Rs.	Rs.
1929-30	843	1,145	1,068	8,331	1,824	10,549	458	398	608
1930-31	8,548	5,653	9,739	48,872	4,704	56,110	327	372	380
1931-32	11,753	5,802	9,057	51,966	4,444	48,317	709	753	790

STATEMENTS LAID ON THE TABLE.

THE CRIMINAL LAW AMENDMENT BILL—contd.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Further consideration of the amendment moved by Mr. Jog that clause 4 of the Bill be omitted.

Mr. S. O. Sen (Bengal National Chamber of Commerce: Indian Commerce): Sir, I support the amendment moved by my Honourable friend, Mr. Jog, that this clause 4 be deleted. We raised this point in the Select Committee and we wanted this clause to be omitted. We were told that this clause 4 and clause 7 were so vitally important to the Bill, that if they were deleted, the Government might as well give up the whole Bill. Our objection was that this provision introduces a novel proposition, a novel principle in legislative enactments. We have heard of preference in tariffs, on goods, we have heard of preference in excise duty, etc., but we have not heard of preference being given to any individual, as regards his social, political or domestic spheres or even his duty as a servant of Government. (Applause.) This clause gives preferential treatment, it ensures preferential treatment to a Government servant not only in his activities as a servant of the Crown, but also in other spheres of life, as a man. Sir, that was the principal ground upon which we objected to this provision while we were discussing it in the Select Committee. We also considered that except in Gujarat boycotting of public servants was not heard of and, therefore, an all-India Legislation was not necessary. There are also various other grounds upon which this clause could be condemned. Sir, I will take a little time in going through the clause and discuss it elaborately. The clause runs thus:

"Whoever, with intent to harass any public servant in the discharge of his duties, . . ."

What are the duties in respect of which he is to be harassed, his duties as a public servant or his duties as a man? The clause does not say anything definite about this point. This clause mentions only about a public servant being harassed, in the discharge of his duties, but, unlike the Penal Code, and even the Ordinance, it does not state in relation to what the duties are. The Penal Code also speaks of a public servant being obstructed in his public functions, but here we have got nothing of that nature. I do not know whether this was done designedly or it is merely an omission on the part of the Government. If it is an omission on the part of the Government, the fault lies not with Government alone, but with all the members of the Select Committee who were discussing this provision. But it seems to me that it was designedly done. The public servant must be protected as a public servant and also so far as his duties as a man are concerned. We know that some statutory duties have now been cast upon men in this country. Under clause 8, the duty has been cast upon the father or guardian of a boy to conduct himself in such a way that his son or ward may not commit any crime, in which case he may be fined. Secondly, under the Ordinance, it is laid down that no man should own any land in this accursed country. Under section 27 of the Ordinance, if the inhabitants of any part of the country are concerned in the commission of any offence or any other act of crime, Government may inflict a collective fine. Now, who are the inhabitants described in that section:

"For the purposes of this section, 'inhabitants of an area' includes persons who themselves or by their agents or servants occupy . . . etc."

Therefore, occupation of a land by a servant on my behalf would include me as a person against whom the fine is to be realised. The inhabitants also include:

"Landlords who themselves or by their agents collect rents, notwithstanding that they do not actually reside therein."

and, therefore, liable to fines.

We do not know where a collective fine is going to be imposed and, therefore, it is high time for us to sell or disown all lands rather than be mulcted in this way. These are the kind of statutory duties which have been cast upon the inhabitants of this country.

Then the clause says:

"or to cause him to terminate his services or fail in his duty".

Again, what duty? In clause 3, the same words occur, "fail in his duty", but there it is qualified by the words "as such servant". Here those words do not occur. Therefore, failing in his duty may mean failing in his duties as an individual. Then, where will the public be? It is probably the duty of a man to provide for his children's education. But if a private tutor be not available in the village where the public servant happens to be, any person eligible to be a private tutor will be liable under this clause. Then it goes on:

"refuses to deal with"

What is the meaning of the word "deal"? I was looking into the Oxford Dictionary yesterday and found that "deal" means "associate with or do business with".

The Honourable the Law Member has now given notice of an amendment to this clause. He wants that after the words "deal with" certain words should occur, namely, "in the way of providing food". Therefore, it will be the duty of the public in a village where there is a public servant to provide him with food; but he says and the Select Committee Report says that all these words are qualified by the words "on the terms on which such things would be done in the ordinary course". Sir, I have very great doubt whether these words can qualify this portion of the clause, because, after this, it says "or to let on reasonable rent", etc. Here we have provided a term upon which land is to be let out, namely, a reasonable rent. Having provided that, it is open to doubt whether this portion, viz., "on the terms on which such things would be done in the ordinary course" will be considered to have any reference to the first part of the clause. Then it goes on to say:

"render any customary service," etc.

We know that to establish a custom, it must be a custom from immemorial times, although mercantile customs grow in this country very rapidly. But this has nothing to do with mercantile custom, because the public servant will have nothing to do with it. Therefore, what is the customary service mentioned here? It may be that a person who is a washerman must wash his clothes; if he is a barber, he must shave him:

"on the terms on which such things would be done in the ordinary course."

[Mr. S. C. Sen.]

There cannot be any ordinary course for every person. In some villages, as you know, the barbers are not paid, because they may have been given lands by some persons for whom he does free work; in other cases, they may be given some vegetables or something of that kind. So the meaning of the words "in the ordinary course" is not clear.

Then, again, when you come to the definition of a "public servant" you find that "public servant" includes not only respectable people, but also menials of railways, menials of utility companies, village *chowkidars*, etc. Is it possible to concede that the village *chowkidars* are to be rendered customary services upon the usual terms? By the inclusion of all sorts of people within the category of public servants, the operation of this clause has been made ridiculous. On these grounds I support the motion that this clause should be deleted.

Mr. G. S. Dutt (Bengal: Nominated Official): Sir, as I listened to the debate on this amendment, I could not help being impressed with a sense of unreality in a great deal of the eloquence to which we have been treated mainly by Honourable Members opposite and also to a certain extent by at least one Honourable Member behind us. The questions before us are: Is the present law sufficient to protect those who are responsible for the administration of the laws which this Legislature has made? Is it sufficient to protect them from harassment for discharging their duties, in carrying out the laws which this Legislature has made? Instead of dealing with this question, many of my Honourable friends have branched off into what I may describe as Demosthenes-like diatribes on the devoted heads of the poor officials who have to carry on the dusty work of district administration. There is a proverb in Bengal—we have an apposite saying in Bengal, Sir, for everything in life and Mr. Lahiri Chaudhury has had occasion to quote one or two in his speeches—which describes this state of mind and it says:

"Dhan Bhanter Shiver geet."

It means, you should not be singing the song of Shiva when you should be husking your paddy. Now, the song of Shiva, Sir, is an unfailing source of enthusiasm, and one of its attributes is that once somebody begins to sing it, there is a chorus raised, everybody comes and joins in the chorus, and you have a scene of wild excitement. Here also we find that whenever you begin to abuse officials, it provides an unfailing source of enthusiasm and a chorus is always raised accompanied by feelings of wild excitement. With due deference to Honourable Members, I would liken the speeches of many Honourable Members opposite on this subject to an abandonment to the song of Shiva and its wild excitement and chorus, when they should be devoting themselves to the practical business of the husking of paddy or, in other words, of dealing with the subject matter of the clause before the House. The paddy in the present case, Sir, is this clause 4 and the question is whether the present law is sufficient to protect the public in their freedom of action and freedom of locomotion, and, what is here more to the point, whether it is sufficient to protect your officers in their work of safeguarding to the public their freedom of locomotion and action. I believe, Sir, that I can say without fear of contradiction from my Honourable friends who come from Bengal, that I am no blind supporter of the police or of any other section of Government officers. But,

Sir, what I ask is this: is this the time to dilate upon the evil doings of some particular officials who may have made some mistakes? I think, Sir, that this subject of the widespread prevalence of the misdeeds of officials is rather out of date now. It is well known that the conditions which prevailed twenty years ago and which used to provide a subject of unfailing theme for eloquence in the Legislatures and outside do not prevail now-a-days. In this connection I must say that the only Honourable Member who had a good word to say about the officials is our friend, Mr. Gaya Prasad Singh, to whom I must pay a tribute for doing this. But when I listened to my Honourable friend, Raja Bahadur Krishnamachariar, I was wondering where he got his highly entertaining stories from. While listening to him, I began to wonder, Sir, whether he was speaking from mere hearsay or from his own knowledge. He talked about a poor *chowkidar* who came to him after a long journey and begged for a few pice worth of drink. I presume that in this case he was speaking from his own experience. Presumably the Honourable Member did not give the *chowkidar* the drink asked for and he was undoubtedly within his right in refusing it. But, Sir, when he related the story of a Government official going at dead of night and waking up a poor *dhoby*, and, if I remember him aright, putting a bundle of clothes on his back to carry for washing, I began to wonder, Sir, whether his memory was not playing a trick with him and whether he was not relating a story of pre-historic times which he had read in a story book as a child or had perhaps heard from his grandmother. Sir, I do not know much about Madras, but I do not think that such things happen even in that part of the country now-a-days. Let us leave the misdeeds of officers alone and come to deal with the motion before the House. And here I would ask Honourable Members, are the officers on trial here or are you on trial?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order.

Mr. G. S. Dutt: My point, Sir, is this: many Honourable Members spoke yesterday as if the officials were here on their trial. My point is, it is not the officials who are on their trial here

An Honourable Member: Then do not ask for protection.

Mr. G. S. Dutt: It is the Legislature which you represent and which must provide sufficient protection to all by its laws that is on its trial. Are not the officials who are engaged in protecting you but to whom you give step-motherly treatment, also entitled to protection? I admit, Sir, that there may be officials here and there who commit excesses. Officials in every country are liable to err. In no country are the members of any section of people absolutely perfect. But, Sir, we must not lose sight of the fact that they are not on their trial here now: it is really you who are on your trial.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Will the Honourable Member address the Chair?

Mr. G. S. Dutt: I beg your pardon, Sir. I ask Honourable Members opposite, is it not they who are on their trial? Is it not the Legislature itself which is on its trial

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): Including Mr. Dutt himself.

Mr. G. S. Dutt: And what are the officials doing for which you treat them in a step-motherly fashion? Sir, I can understand the principles which are represented by the gentlemen who themselves practise civil disobedience: they are welcome to their principles. If they came here and said "You have no right to pass such laws", I could understand their position. But how can my Honourable friends opposite who profess to represent the present order which the others want to subvert—who represent the laws which the others want to subvert—how can they come here, Sir, and object to legislation which is intended to fill up the lacuna left in the present law through which these attacks are being made? The officials to whom you are meting out this step-motherly treatment are the people who, as your servants, are administering the laws which the other party is out to subvert. They are your own front line of defence against this attack on you and the present order which you represent, and instead of supporting them you are hitting them from behind

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Will the Honourable Member remember that he is addressing the Chair?

Mr. G. S. Dutt: When I said "you", Sir, I really meant the Honourable Members of this Legislature. I used the word impersonally. I submit that it is the officials who stand between them and utter chaos and disorder, and yet, Sir, instead of backing the officials up in this matter, Honourable Members opposite come here and behave as if they are the right wing of the people constituting the Congress and the civil disobedience movement and make excuses for the conduct of those gentlemen. However justifiable such conduct may appear in the eyes of those who represent the civil disobedience movement, I submit, Sir, that it does not lie on Honourable Members opposite to come and object to legislation which is intended to remedy the inadequacy of the laws which they have themselves helped to make. I say, Sir, it is they who stand impeached, because the law is at present obviously inadequate to meet the situation that has been created by civil disobedience. It has been admitted by several speakers, including Mr. Ranga Iyer, an eminent Member of the party opposite, that boycott of officials has, in fact, sometimes had a very harmful effect. Public servants have been boycotted in many localities and that has been admitted. Now, why have these officials been boycotted? Is it not because they have been protecting our Honourable friends opposite from being picketed and boycotted? I have heard of a case in which a prominent Member of the opposite party was obstructed by a party of ladies in Queensway in New Delhi, and he had to send a S. O. S. in the form of a telephone message to the police who had to go and bring him here to attend the meeting of the Assembly. We all know of such cases. Sir, the public servants are there to protect Members of the public including Honourable Members from being molested, picketed or boycotted. Honourable Members opposite ought to know, Sir, that if public servants were not ready to help them from being picketed, they would be picketed today against coming to the Legislature and from going to the station:—they would be picketed from the bazars, and they would not be able to get their luggage from the station; and because the public servants are protecting Members from being picketed, these public servants are boycotted. Therefore, Sir, I would again ask: why

are we boycotted? I don't say that I have been boycotted personally, but when I say "we", I speak on the behalf of the devoted band of public servants to whom I have the honour to belong. Sir, we are boycotted because we public servants are protecting Honourable Members and other law abiding people from being picketed and otherwise molested or from being themselves boycotted. My friend, Raja Bahadur Krishnamachariar said that if we behave nicely, we shall not be boycotted. He said: "Why don't you command the respect of the people? Don't resort to Criminal Law, be kind and sympathetic"?

Mr. B. V. Jadhav (Bombay Central Division: Non-Muhammadan Rural): Is he not justified in saying so?

Mr. G. S. Dutt: But that is not the point here, Sir, at all. Attempt was made yesterday to prove that it was on account of the unpopularity of certain officials that they were boycotted. As I have remarked, Sir, Honourable Members opposite speak as if they belong to the right wing of the Congress, but when they make such statements as advocates of persons practising civil disobedience, it becomes obvious that they are speaking without any brief, because those who resort to boycott of officials do not say that they boycott certain officers because they are bad officers. On the contrary, Sir, they say,—I speak from personal experience,—and I have got a great regard for their consistency,—they say that they want to boycott us because they are out to subvert the law and because we stand between them and the subversion of law,—not because we are bad officers. It is obvious, therefore, Sir, that when Honourable Members opposite, while discussing this motion, delivered a long harangue on the goodness or badness of certain individual officials, that was entirely beside the point, because that would not represent the brief of Honourable Members opposite if they had a brief at all. Sir, Congressmen would never give Honourable Members opposite a brief. On the contrary, if they were allowed to have their way, they would prevent Members opposite from coming to this House and discharging their duties as Members of this Legislature. Sir, this is really not a war waged against the officials. This is a war waged against Members of the Legislature, against the legislation which they have passed and against people who are doing their ordinary work under the protection provided by the law of the land.

Mr. D. K. Lahiri Chaudhury (Bengal: Landholders): They do not want this law at all.

Mr. G. S. Dutt: Is that the reason why you do not want it also? I shall mention another proverb from Bengal in this connection, with your permission, Sir, and at the risk of tiring the patience of Honourable Members. (Some Honourable Members: "Go on, go on; it is very amusing.") This proverb runs: "*Jar janyey kari churi sheyee bole chur*". It means that "the person for whom I have committed a theft calls me a thief". It is meant to apply to the case of a very indigent father, who does not know how to make both ends meet, who has a big family who are all starving, and who is therefore reduced by cruel necessity to the degradation of committing a theft to save their lives. We know,

[Mr. G. S. Dutt.]

Sir, that such cases do unfortunately happen. With the money he has earned by the theft to save them from hunger he gives them things to eat; they all eat them, and then they turn round and call him a thief. That, Sir, is the unfortunate position in which we, poor officials, find ourselves placed here. We undergo all this ignominy, all this hardship and face all this boycott to protect these gentlemen, and these gentlemen are the people who give us abuse in return. Instead of thanking us for protecting them, they call us oppressors. (An Honourable Member: "Give up your job.") There is pathos in all this that is enough to make the angels weep, but we are not angels and so we do not weep; nor have we the time to weep, because we are too busy protecting our friends opposite from picketing, boycott and molestation.

Now, Sir, I come to the question—is the present law sufficient to deal with the menace of boycott? There is undoubtedly this menace of boycott. If any Honourable Members will profess ignorance, I say that the number of such Members who profess ignorance must be very small, because it is well known that there have actually been very relentless cases of boycott

Mr. B. V. Jadhav: That was in Guzerat.

Mr. G. S. Dutt: Not only in Guzerat, Sir, but in every part of the country there have been numerous cases of boycott, and there can be no doubt, Sir, that if the Ordinances had not afforded the protection needed, that would have been extended to other parts of the country and in an even more virulent form. In olden times, Sir, in this country when a man was not liked or did something which was not approved by society, then, as our friend, Sir Muhammad Yakub, has reminded us, they used to stop the washerman and the barber. But the boycott also stopped there. They thought that that was enough to show their disapproval. The idea was to make the offending member feel he was unclean. He could wash his own clothes and he could shave himself, but neither would the barber shave him nor the washerman wash his clothes. That was enough. But the present boycott which has been the product of the civil disobedience movement, Sir, is in the form of a regular war,—it is a blockade. I have known cases, I do not want to go into minute details,—but I have known cases where police officers as a class have been refused food in inns or hotels. Now, imagine this case for a moment. There is a large number of police officers in a district town. They cannot all cook their food, they live without their families and so they go to a hotel to have their food and it is refused to them. (An Honourable Member: "They do not pay.") That is not a fact, Sir, they have always paid for their food. It is only since the beginning of this movement that they have been refused food. The idea is to force the men to resignation by starvation. If they do not resign, then they are sentenced to starve. What are the alternatives open to such officials who find themselves in this unhappy position, where they are virtually blockaded and sentenced to be starved? I say, Sir, this thing has happened. If anybody challenges this, I am prepared to give instances, but, I am sure, it will not be challenged. If, say, a hundred police officers in a district town are refused food in every hotel in that town, what are the alternatives that are open to them?

They can either go starved and die. Do Honourable Members opposite want that to be done? No, I presume not. Or they can take the law into their own hands and commit reprisals and snatch the food by force from the hotel. If they do this, they will lay themselves open to the complaint that those who are the protectors of the people are themselves breaking the law. The officials are refused food because they protect the people at large against picketing and molestation. Do Honourable Members desire that they should refuse to protect the people against these activities and resign their service? If not, then, there is only one course left open, and that is for the Legislature to provide the necessary safeguard in the shape of a law which will prevent this kind of reprisals against public servants who are protecting the public. Obviously, therefore, there is a lacuna in the law when faced with such a movement and it is the duty of this Legislature to fill up that lacuna. Honourable Members opposite have asked for examples of customary service. Is it or is it not a customary service that hotel-keepers should provide food to people who demand it in return for payment in the ordinary way like members of the general public?

Mr. D. K. Lahiri Chaudhury: Is it a customary right?

Mr. G. S. Dutt: It is a customary service for a hotel-keeper to cater to you if you go to a hotel and ask for food in return for payment; in any case, Sir, it would certainly come under "deal with".

Mr. D. K. Lahiri Chaudhury: What a nice interpretation!

Mr. G. S. Dutt: An official goes on tour to an out of the way station, and he takes with him a quantity of luggage which has to be transported to a place two miles off. The coolies are induced not to carry it. The hackney carriage driver is induced not to carry that luggage. Is not that a refusal to deal with a public servant on the terms on which such things would be done in the ordinary course? I submit, Sir, I have given sufficient instances, and I say that these things have happened. I assure the House that I can cite other cases where such things have happened. There have been cases where customary services have been refused to *chowkidars* in the villages by barbers and washermen and where shopkeepers have refused to deal with a public servant in the ordinary course of business, and thereby the public servant has been greatly harassed in the performance of his duties. This refusal has been made with the intention of harassing the public servant in the discharge of his duty. My Honourable friend, Mr. Lalchand Navalrai, said that this was a movement of passive resistance. Sir, I have never heard of an euphemistic phrase which is so absolutely inappropriate, as this phrase of non-violent passive resistance when applied to civil disobedience or boycott. Does violence only apply to cases where a man carries a lathi in his hand or beats you on your back? An action may be violent even when the person who is responsible for the action has no weapon in his hand. Take this case which I have just now cited of an innkeeper refusing to give food—all the innkeepers of a town refusing to give food to a particular class of public servants and practically making them starve.

Mr. D. K. Lahiri Chaudhury: Can you cite any *prima facie* case where they were starved to death?

Mr. G. S. Dutt: I have a particular case in mind, but I do not want to waste the time of the House. The police officers could not be starved to death, Sir, because the Ordinances came into operation before this could happen.

Mr. D. K. Lahiri Chaudhury: We shall be glad to hear the details of one instance.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member should be allowed to speak without such interruptions.

Mr. G. S. Dutt: I can assure the House I can cite cases, I have actually a particular case in mind.

An Honourable Member: Why not cite the Mymensingh case?

Mr. G. S. Dutt: When you want to make a man starve by refusing to give him the ordinary facilities for taking food, if that is not violence, Sir, I do not know what is violence. All I can say, Sir, is that one would prefer a little violence to such non-violence. In order to explain what I mean, Sir, I would mention a third proverb from Bengal which says:

"Petey kheley pithey shoy."

It means, if your stomach gets food to eat, then your back does not mind getting one or two blows. It comes to this, that the violence which is involved in the attempt to starve a man by picketing or boycott is a worse kind of violence, although it is not accompanied by a blow from a lathi, than the actual physical violence that would be involved in inflicting a few mild blows on his back.

I submit, Sir, that there is ample justification for this clause and that a very clear case has been made out for it. So long as the menace of civil disobedience exists, it is the bounden duty of this Legislature to provide legislation of a temporary nature supplementing the existing law which fails to protect the official from harassment in the discharge of his duty of protecting the ordinary citizen in the exercise of his freedom of action and freedom of locomotion, and in his duty of protecting the members of the public including the Honourable Members of this Legislature from being molested, picketed and boycotted by those who practise civil disobedience. Sir, I oppose the amendment. (Cheers.)

Mr. D. K. Lahiri Chaudhury: Sir, I was listening with rapt attention to the speech of my Honourable friend when he was on his legs. (Sir Muhammad Yakub: "Late friend?") I did not know that my Honourable friend, Sir Muhammad Yakub, was also short of hearing. I listened to my Honourable friend with rapt attention, because, at one time, he held the position of the executive head of my district, and I thought that I would get some light from him regarding this clause. I could not make out whether his speech was suicidal or homicidal; he spoke both ways, and he made certain observations which may be applied to the officials themselves. He admitted that there have been some misdeeds committed by the officials in the discharge of their duty.

Mr. G. S. Dutt: On a point of personal explanation. I said that the officials are just as much liable to error as members of the public, including Members on the other side of the House.

Mr. D. K. Lahiri Chaudhury: Then, Sir, I was listening to the speech of my Honourable friend, Sir Muhammad Yakub, with rapt attention.

12 Noon.

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions: Muhammadan Rural): You were not paying any attention at all.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Chair wishes to know whether Honourable Members desire to get on with public business and, if they do, will they please abstain from interrupting the speakers addressing the House?

Mr. D. K. Lahiri Chaudhury: I thank you, Sir, for giving me protection from these interruptions. My friend, Sir Muhammad Yakub, opposed this amendment. I do not know how he would explain this phrase "in the discharge of his duty" if he had taken up a brief in this case. Suppose an officer is not on duty and he comes and asks for a house to be let and he is refused, will this clause operate? I very much doubt whether it will be interpreted in any Court of justice that the man who refuses the house will be liable to prosecution. This Bill will divert the people from civil disobedience to criminal disobedience. This takes away the personal right and liberty of the people. The Law Member was talking about the fundamental law of jurisprudence. May I ask him, under what law of jurisprudence this clause has been inserted. It is inhuman to take away the liberty of the poor citizens. I was listening to the speech of Mr. Dutt. He spoke of public servants being starved. He did not give one single instance in support of what he said. This law will be so much hated by the people that they will take to criminal violence. If we read between the lines of this clause, the poor people in the village will be subjected to much harassment. Raja Bahadur Krishnamachari has explained fully what happens in cantonments and my friend, Mr. Raju, has clearly pointed out how it will hit the people. I can say with the utmost confidence and with all the power that I can command that this particular clause will be harmful and detrimental to the interests of the masses and it will surely lead to revolution instead of keeping them non-violent. This law, which is sought to be enacted by the Home Member, will lead to the utmost difficulties. Now a regiment has been stationed in my district, and if they pass through a village and ask for some food from the people in the village and the gentlemen in the village refuse this food or if they ask a shopkeeper to supply them with so many seers of milk, rice and other articles and he says that he cannot supply, then those men will be liable to arrest.

Mr. Muhammad Anwar-ul-Azim (Chittagong Division: Muhammadan Rural): Far fetched.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Please don't interrupt.

Mr. D. K. Lahiri Chaudhury: The sellers will certainly hesitate, because they are not sure whether they will get the price or not. I think my friend, Mr. Dutt, will bear me out when I say that if his *chaprasi* goes to the bazaar and says that he is the *chaprasi* of the *Bara Sahib* and the shopkeeper says that he does not care whether he is the *chaprasi* of the *Bara Sahib* or not, and says that he would not sell his articles. . . .

Mr. G. S. Dutt: I am unable to support my Honourable friend in what he is saying.

Mr. D. K. Lahiri Chaudhury: It may not be the case with my Honourable friend, but it is the case with many of the servants of the higher officials. This cannot be denied. Such incidents are happening in every market. Sir, by way of developing this point, I must say that this particular clause ought to be deleted from this pernicious and obnoxious Bill. I hope and trust, every Member, who has got a little conscience, who has got some little sympathy for the unarmed, defenceless and dumb millions of India, will at least consider this particular question at issue, and I trust they will give their conscientious support to the deletion of this particular clause. Sir, I support this amendment.

Mr. Amar Nath Dutt (Burdwan Division: Non-Muhammadan Rural): Sir, thirty-two years ago, when I was idling away my time in a town in the Presidency of Madras, taking a little respite from the University courses, I noticed the name of a young man who stood first in an examination at the University to which I belonged and I noticed in the papers that he was sailing for England to compete for the Indian Civil Service. I imagined a very brilliant career before him, but I never knew that in the evening of my life I would have the privilege of friendship of that young man. Only I wish that we had been discussing matters on the same side and with the same eye to the interests of our countrymen, but our visions are quite different. It is the 'service', 'lifelong servitude' that has made him one man, and participation in the political movements of my country from almost my boyhood has made me another man. Sir, I do not know, when we give our accounts before our Maker, in what way we shall be judged. Be that as it may, I was sorry that I had to hear from him things which probably in his heart of hearts he cannot believe, knowing him as I do that he also wishes India's freedom, and India's culture is also dear to him and he wishes to revive India's lost heritage as evidenced by his activities to revive the *Rai Bashay* dancing. Sir, my Honourable friend, Mr. G. S. Dutt, has been pleased to observe that he has knowledge of customary services being denied to officers. Sir, he holds a brief for the customary services for Government officers. Now, will he believe me, as I believe him and he must have known of instances which I shall presently relate. Will he believe me also that it is a customary service for a policeman to get up on any *tonga* that may pass him?

Mr. S. C. Mitra: Free of cost?

Mr. Amar Nath Dutt: Yes. You can take it from me, this is the practice here in New Delhi also. Sir, one day when a policeman was trying to get up on my *tonga*, I said, I shall get down from the *tonga* if he gets up. Then he got down. Now, is that customary service?

An Honourable Member: Do they use it free, or pay for it?

Mr. Amar Nath Dutt: I do not know. My friend is a District Officer and he must have had ample experience and he must have heard of the complaints as to the doings of the Settlement Officers in far-off villages. Sir, recently we had settlement operations in our own District, and I have some personal knowledge as also my friend over there, Rai Bahadur S. C. Mukherjee whom I miss here just now, who was laying a complaint before a Member of the Executive Council of Bengal saying that these

people were harassing his men and his tenants. And what was the reply? I hope I am breaking no confidence when I say, that that gentleman told us that in a far-off village in the home of an ex-Chief Justice of Bengal when he and the Director of Land Records were there, then the ex-Chief Justice complained about the underlings of the settlement officers and the Director of Land Records himself said that they had taken Rs. 65 from his officers. Sir, is that customary service? Even when the first settlement operations begin, these *amins* go about the villages when standing crops are there. The instructions no doubt are "save the crops as much as possible", but actually they will destroy as much of the crops as possible in order to get some money and if you do not grease their itching palm, you are not safe. Sir, all these complaints people make before the Settlement Officers, but they do not pay any heed. Will my Honourable friend take it from me that I have known of Settlement Officers who never spent anything for their rations? That being so, it follows that there are officers and officers. There no doubt are a few officers of the type of my Honourable friend over there, but the majority of them are not so, and, if that is so, then to protect them so that they may commandeer these customary services would be tantamount to oppressing the people, and I do submit that they do not deserve it.

Sir, my friend has been pleased to speak about lacuna in the law. That lacuna has been existing since the enactment of the Indian Penal Code. That lacuna has been existing since the dawn of civilisation in human society. That lacuna has been existing in all civilised systems of jurisprudence in the world, excepting probably Russia. Sir, I think every one here will admit that since the dawn of civilization, two things have kept society together. They are the institution of private property and the institution of marriage. We hear of Bolshevie Russia destroying these two foundations of human society. Sir, I ask, do the Government, by the introduction of legislative measures like this, want to do away with the rights of private property, wish to introduce Bolshevism into India? Sir, we would like to be spared Bolshevism, and I should have hoped that my Honourable friend over there, for whose country's history I have the greatest admiration and from whose jurisprudence I have learnt to value the freedom of person and property, also would spare us from this Bolshevie procedure, for, Sir, what is this clause, if not a negation of the right of private property? It says:

"Whoever, with intent to harass any public servant in the discharge of his duties,"

Sir, the word "harass" means to fatigue, to exhaust. Now I readily admit that officers of the type of my friend over there are generally fatigued and exhausted in the discharge of their duties, but there are also officers who can be fatigued in other ways and not in the same manner as my Honourable friend over there. Who is to judge of the fatigue that is caused, and how that fatigue can be caused by an outsider, I fail to understand. There are other meanings also of the word "harass". It also means to tire with repeated and exhausting efforts.

Now, Sir, my Honourable friend has been pleased to observe that they are our servants; they are the public servants. The common saying, at least in former days, was and I do not know whether it is otherwise now, that the Indian Civil Servant is neither an Indian nor Civil nor is he a Servant. It is a misnomer. But let us concede that since much water has flown over the Jumna and they have also changed. They have

[Mr. Amar Nath Dutt.]

become to a certain extent Indian; they have also become Civil and I do not doubt it, because I find them here very courteous and they are not certainly of the type of Civilians that we find elsewhere. I have the highest respect for them, because they are an able body of administrators, the like of which India required formerly. At the same time, it has been said by an official Member from Bombay that the higher class of officers are not affected. It is only the subordinate ranks that are affected and, in this connection, I would like to say that our complaint is not against the high officers of the Government, not against the members of the Indian Civil Service, who try to remove every wrong that is possible. Although we do not see eye to eye with them in all matters, I do believe in the honesty and sincerity of their desire to work for the good of the people. At the same time, this desire to protect the subordinates and not to listen to the complaints of the people against the subordinates by which act they are encouraged all the more, is very much to be deprecated. Sir, they should not be given such a protective legislation as is embodied in clause 4.

I come to the next phrase—"refuses to deal with". Now, Sir, the word "deal" means several things. But the verb transitive "deal" means to divide, to separate, to sever, to give in portions or as one portion or share, to distribute, apportion, to bestow, deliver as blows or the like, to distribute, and so on. The complete phrase is—to deal with or to let on reasonable rent a house usually let for hire. I ask you to consider this. A man may have a house to let, but he does not want to let it out to an untouchable and you do not come out with any protection for these untouchables. Pandit Sen, who is a Sanatanist, has a house at Khulna and he would not let it out to an untouchable or to a non-Hindu and your public servants are not always orthodox Hindus. In fact, in these days very few orthodox Hindus are left. Supposing my friend over there, who has no objection to take forbidden food, compels my friend, Pandit Sen, to let out his house to him, would it not be injuring the religious feeling of a Sanatanist Hindu? I do submit, that houses owned by orthodox Hindus are not let out to low class Hindus and your subordinate ranks are recruited not only from the high class Brahmins and Kayasthas, but also from the Depressed Classes. In fact, it is your principle nowadays to give the members of the Depressed Classes more representation in the services and the Legislature. That being the case, you are compelling a man to act against his own religious belief by compelling him to let out a house on hire to a man to whom he would not let out. Then, suppose there is a gentleman who has built a house in his native town and he serves in Delhi. For some time he may let it out, but he will require it when he goes to his native place on long leave or during the vacations. In this connection I will give you a particular instance of a neighbour of mine. He is a Professor in the Delhi College and he lets out his house to judicial officers and not to executive officers. And I will tell you why. There are four houses in a particular locality, one of which is occupied by an executive officer. I know of an executive officer who used to get articles written in newspapers against himself and thereby gain favour with the Government. He himself used to get those articles written in newspapers that he is against Swadeshi and oppressing people to buy foreign goods. The executive officer got police guards in his house and what is the result? People are not willing to take the other three houses on rent. I know it perfectly well that this

man does not require a police guard, but he has got it simply because he wants to impress his superior officers that his life is in danger and, like the officer referred to before, he expects to be a favourite with the powers that be. Sir, that is the mentality of the officers of the Government and they do not deserve any sympathy. I know that a District and Sessions Judge who happened to be living in the same compound was one day rudely treated by the police guard and, therefore, no other judicial officer would accept any of these three houses in the same compound. So, there may be various reasons for not letting out a house to an officer, especially officers of the type who take advantage of the adversity of the people.

Then the clause refers to customary service. As regards customary service, I have already given one instance as I saw here in Delhi. There may be other kinds of customary services to such a public servant or any member of his family. I was just going to narrate a story which, I think, is familiar to all officers who have served as Settlement Officers in the province of Bengal, when Bihar was included in Bengal. Those officers, who served in that Province as Settlement Officers, are aware of what customary services meant in that particular Province. They know what customary services these officers at times would want. For decency's sake, I would not narrate it in this House. On the terms of this clause, such horrible kinds of customary services might be demanded by public servants. The terms in which this clause is worded are very vague. In fact a judicially minded Judge will find it very difficult to get all the materials necessary to come to a judicial finding about these things.

The clause further reads, "withholds from such person or his family such medical services as he would ordinarily render", and so on. In this connection I will narrate another incident about an officer who taught a good lesson to a sub-inspector of police who robbed a boy of a *pappaya* which was being taken to the bazaar for sale. That incident is very well known to every officer in Bengal. The poor boy, whose mother was ill, took two *pappayas* to the market for sale so that he could fetch some sago and sugar candy for his mother. The poor boy was passing by the side of a *thana* and he was called by the head constable or the sub-inspector of police, whoever he might be, and then one of the *pappayas* was taken away by that police officer. The sub-inspector then told the boy that he would give the same amount of money for the *pappaya* which he took if he returned to him after selling the other *pappaya*. The other *pappaya* was a smaller one and so the poor boy was going crying. Fortunately for the boy, a District Officer, whose name will always be remembered for several reasons—he was Mr. Beatson-Bell—that District Officer was passing by the road when the boy was going along and that District Officer enquired of the boy as to why he was crying. The boy narrated the incident that took place, and immediately the District Officer took the *pappaya* and gave him a ten-rupee note and asked him to demand a like amount from the sub-inspector of police who took the other *pappaya* from him. When the boy went to the sub-inspector of police and showed him the ten-rupee note which he got as the price of one *pappaya* and when he demanded a like amount from the sub-inspector, the latter immediately slapped the boy on the face saying that the boy was uttering a lie. Even when the boy told the police officer that a Sahib gave him the ten-rupee note, he did not believe his version. Immediately the District Officer came on the scene and told the sub-inspector that he has paid

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Rs. 10 and so he also must pay Rs. 10. What I mean to say is, there are kind hearted District Officers like the one I have just mentioned. There are officers who command our respect and to such officers we are prepared to give any amount of protection even at the cost of our lives. There are many such officers belonging to the Indian Civil Service and that is the reason why we respect the members belonging to that Service. My Honourable friend, Mr. Dutt, must have had his own experience of subordinate officers of Government.

As I was submitting, Sir, this provision is not intended to supply a lacuna in the law, but it is negating the law altogether. That being so, in all fairness I would request the Government not to enact a law like this and arm their subordinate officers with such wide powers as is contemplated in this clause which destroy the rights of private property. With these words, I support the amendment.

Mr. B. Rajaram Pandian (Madura and Ramnad cum Tinnevely: Non-Muhammadan Rural): Sir, I rise to support the amendment. I am afraid it is too elastic a power to be entrusted to the men dressed in brief authority, particularly the police. We have sufficiently heard of the police excesses. Is it fair, Sir, that they should be armed with more powers of this nature? If the Government really want to check the Congress indulging in activities of this nature, cannot Government prevent or take suitable action against them and, if need be, make suitable arrangements with some people who will be ready to serve the purposes?

I know certain incidents that have taken place in my province. A friend of mine, belonging to a village in the Tinnevely District, one day at 11 P.M. was going in his private car to fetch a doctor and a midwife to attend on his wife who was in labour pains. On his way he had to pass through another big village to go to Tenkasi where the Doctor lives. He met a head constable who wanted the car for his police constables to go to another village in the opposite direction as he had received information of a communal rioting. My friend said that he would place his car at his disposal after taking the doctor to his house to attend on his wife, but the head constable is reported to have stopped the car from proceeding further. My friend finding that the head constable was too obstinate, ordered the driver to drive the car. The final result was that his driver was charged for rash driving half a dozen times and he was registered as a suspect and everyday a policeman would go to his house and ask him if he was present there. I think even now he is being surveilled. The driver went away from his service and no other driver will take up service under him. So much so that he had to sell away his car for a very low price. I do not want to weary the House with such incidents, but the Honourable the Home Member knows that corruption is not a rare thing amongst the subordinate ranks of the police and village officers. My Honourable friend, Mr. Macqueen, will be able to tell you how many cases of corruption by village officers he had to deal with in the Ramnad District.

May I ask the Government, Sir, are they really going to protect the interests of the law-abiding people by enacting this measure which would expose them to harassment every day by subordinate agents of Government?

ides, I may venture to mention that the Government of India by this provision will give a clear hand to the lower officials to perpetrate the worst form of corruption in the name of suppressing the civil disobedience movement.

Mr. Uppi Sahab Bahadur (West Coast and Nilgiris: Muhammadan): Sir, I rise to support this amendment, because I trembled when I read this clause as it placed my liberty at stake. Hereafter, the Members of the Legislative Assembly, especially those who live in villages, will be at the mercy of the village officers and village *chaprasis*. (Hear, hear.) That is why I support this amendment. Hereafter we, M.L.A.'s, will have to play to the tune of these village officers and hereafter we, M.L.A.'s, will have to keep the village officers in good humour lest we should come under the provisions of this clause. Not only we have to humour the village officer, but also his relative and any member of his family. Hereafter we have to be in the good books of any person who has got a relation in the Government service. By this enactment what the Government are going to do is to terrorise Indians and to terrorise our souls. Government talk of terrorism in India, but who are the real terrorists in this country? It is the Government who are the real terrorists in this country. The Government want to terrify our souls. That is what the Government are aiming at. The clause, as it is worded, is not aimed at Congressmen alone, but against every citizen of India.

We have got to humour the police officers. Only those who live in villages can understand what a village officer is. Before his superior officer he is a tame sheep, harmless innocent sheep, but when he once enters the village in the absence of his superiors, he is a tiger among men. It is to these people that we will have to submit; it is these people whose necessities we will have to supply and there will be no limit to his necessities. What are the things we have to do? We have to rent our house to him, to rent our lands to him and to his family, and render every customary service to him. In the village, the village officer does not live on the pittance of his income. He generally lives in a very princely style, and how does he manage it? He lives by extracting money from the villagers. Hereafter, when he gets such a wide instrument as this clause, what will be the fate of the poor people? Certainly life would not be worth living in the village and I appeal to the Members of this House to throw out this clause if they have any self-respect in them. Hereafter we have got to submit to the village *chaprasi* and make ourselves his slaves if we vote in favour of this clause. I, therefore, appeal to all Honourable Members to vote against this clause.

Mr. S. C. Mitra: Sir, I support the motion of my Honourable friend, Mr. Jog. I see that, in inserting this clause, Government themselves felt the weakness of their position, because in sub-clause (3) of clause 1, they made a provision that this clause will not automatically apply to the whole of India, but only where the Local Government, by notification in the local Gazette, will direct that this law will have its application. Then there is a further provision in the clause itself. Sub-clause (2) says:

"No Court shall take cognizance of an offence punishable under this section unless upon complaint made by order of, or under authority from, the Local Government or some officer empowered by the Local Government in this behalf."

So, I press this further point for the consideration of Government. If that is so, and if, as was said by the Home Member, he is by this

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all-India legislation laying the foundation on which the Local Governments will build the superstructure,—although we find, as a matter of fact, that Local Governments in their eagerness have already built a great part of the superstructure before the foundation has been well laid,—in that case, may we not leave this provision to be enacted by provinces that require it, rather than burden our all-India Statute-book with such a piece of legislation? So far as we have heard here, it was an official gentleman from Bombay who cited numerous cases from Gujarat. Sir, the Government of Bombay have enough power and they can easily have a clause like this in one of their emergency measures rather than ask us to provide these drastic laws for the whole of India without being convinced that there is any necessity for it.

The other point that I want to make is that Government will be creating a new caste, the official caste, by such legislation. It is not difficult to comprehend cases where there may be hardship; but, I wonder, why in a village all the people should be so perverse that when they find a public servant coming to the village to render some service to the villagers themselves, they should all form a great body and boycott him and try to harass him. It is really an unnatural position. I do not admit that it is a fact, but if it is so, Government are indirectly lending colour to the conviction that the Congress has such a great influence in the whole of India that, because of the Congress mandate, people would even refuse the ordinary rites of hospitality which are almost customary in India, to these Government officials. We have our little villages. If the public servant is inconvenienced in one particular village, he may go and seek shelter and get food in the next village. Is it Government's case that the Congress influence is so widespread in villages that a public servant will not get any help even from the Muhammadans? My Honourable friend, Sir Muhammad Yakub, will probably admit that he will not be denied some hospitality by at least some Muhammadans. If that is so, what is the necessity for a legislation like this? As I have already said, it is possible that there may be hardship in some cases. It has been said very chivalrously by Mr. Amar Nath Dutt that for an untouchable he will not allow some rooms even for hire and when it is demanded from the Government to make some rules for the amelioration of the condition of untouchables, the Home Member will say that Government have nothing to do with these social and religious matters. I feel that the untouchables and the Depressed Classes and some other classes suffer much more from these petty inconveniences than even these high and mighty officers of Government. So my point is, that I do not contend that there are no cases of hardship, but that it is not possible by mere legislation to eliminate all these inconveniences. As has been rightly said by Raja Bahadur Krishnamachariar, you cannot create affection in the minds of the people by legislation. Government servants should treat the people in such a way as to make them feel that they are their friends and that they are acting for their benefit. In that case, such questions will not arise. The remedy is there, making Government servants really public servants, and not by such drastic legislation. Sir, that is the main ground on which a legislation like this in the all-India Statute-book is unnecessary.

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

Mr. President (The Honourable Sir Ibrahim Rahimtoola): I accept the closure. The question is that the question be now put.

The motion was adopted.

The Honourable Mr. H. G. Haig (Home Member): Sir, we have had in the course of this debate a series of stories and personal reminiscences, creditable or discreditable to Government servants, and, throughout, it has seemed to me that the line of criticism has been to concentrate on the supposed misdeeds of individual Government servants and to pay no attention to the broad considerations on which the Government have based their proposals. It has been said that we cannot provide by Statute for an attitude of affection towards Government servants; I am quite aware of that, but we can provide by Statute and, I submit, we should provide by Statute, that public servants are not persecuted, harassed and denied the ordinary necessities of life, and that this weapon, a mean and malicious weapon, should not be used against them, that in fact Government servants are entitled to protection from this form of active persecution. I should have supposed that after the House had listened to the facts put before them by my Honourable friend, Mr. Sorley—whom I venture to congratulate on his very effective maiden speech—they would have realised that there was a strong case to meet and that it was not a case that could be met by reciting stories of petty oppression by petty Government officials in ordinary circumstances. What has happened during this civil disobedience movement? Mr. Sorley put the case before us very clearly. Government servants have been served with notices to quit their houses. Why? Because they are Government servants and were doing Government work. Government servants have been refused supplies in villages where it is impossible to find alternative sources of supply. Why? Simply because they are Government servants and were doing their duty. Those are the kind of activities against which Government servants can claim to be protected and against which indeed it is necessary that the Government, in their own interest, should protect their servants. I can understand the attitude of those—I will not say understand, but it is possible to hold as my Honourable friend, the Raja Bahadur, apparently holds, that we might look forward to some Utopia where Government servants will be abolished altogether, though, as far as I remember, most Utopias contemplate a large multiplication of Government servants. But so long as we do require officials, we must protect them against this system of bullying and harassing, and we must not allow our Government servants to be forced into resignation by these methods. If that position is once accepted, then the whole question becomes one of the method by which we shall protect them; and, in regard to that, the Select Committee went most carefully into the provisions of this clause and introduced a number of changes.

Various criticisms of detail have been made on the clause, as it is at present drafted, and I hope to deal with those on the later amendments in which specific proposals are made for changes in the drafting. But I would invite the attention of the House to a few general considerations. It is urged that if this clause is passed, we shall be establishing a great tyranny, the tyranny of Government servants. I would remind the House that a clause, very similar to this, even wider in its terms, has been in force now for nearly a year. I have heard of no instances of this tyranny. There have in fact been few prosecutions under the boycott provisions of the Ordinances. It is not that those provisions have not been important and

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effective: we are assured by many Local Governments—not only the Government of Bombay, but many other Local Governments,—that this clause has been most effective. The fact is, that once it is known that Government have power to deal with these activities, the activities cease and there is no occasion to employ the section. But, before the powers were taken by the Ordinances, this harassing of Government servants and this boycott of Government servants was a serious menace and not in one province only. I would invite the attention of the House to three safeguards which we have placed on these powers. I admit that it is not easy to draft a satisfactory clause and we realised that the exercise of these powers does require to be watched. What are the three safeguards that we have placed in this Bill? The first is, that this particular clause, when passed into law, does not come into operation except in such area as the Local Government may specially notify. In other words, except when there is some evidence of a concerted attempt to harass Government servants by these methods, the clause will not be enforced at all. Therefore, we need not fear that all over India and at all times there will be this Government tyranny. In the second place, the clause itself makes it very clear that, in order to establish the offence, it must be proved that the withholding of supplies or whatever the action is, has been done with intent to harass the public servant or to cause him to terminate his services or fail in his duty. That cannot be proved in the ordinary cases which various Honourable Members mentioned. Some Government servant wants to get into a *tonga* or wants some supplies of food to which he is not entitled. It will not be possible to prove that the withholding of services, to which he is in no way entitled, has been done for the purpose of harassing him in the discharge of his duties. In the third place, we have provided yet another safeguard, for which I notice we get little gratitude from Honourable Members opposite, in clause 4 (2), which provides that no complaint can be made under this clause unless it has been authorised by a responsible officer. With these safeguards, I commend the clause to this House with absolute confidence.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question **I.P.M.** is that clause 4 of the Bill be omitted.

The Assembly divided:

AYES—31.

Abdul Matin Chaudhury, Mr.
Chandi Mal Gola, Bhagat.
Dutt, Mr. Amar Nath.
Gour, Sir Hari Singh.
Isra, Chaudhri.
Jadhav, Mr. B. V.
Jog, Mr. S. G.
Lahiri Chaudhury, Mr. D. K.
Lalchand Navalrai, Mr.
Liladhar Chaudhury, Seth.
Maswood Ahmad, Mr. M.
Misra, Mr. B. N.
Mitra, Mr. S. C.
Murtuza Sahab Bahadur, Maulvi
Sayyid.
Pandian, Mr. B. Rajaram.

Parma Nand, Bhai.
Phookun, Mr. T. R.
Ranga Iyer, Mr. C. S.
Reddi, Mr. P. G.
Reddi, Mr. T. N. Ramakrishna.
Roy, Rai Bahadur Sukhraj.
Sant Singh, Sardar.
Sarda, Diwan Bahadur Harbilas.
Sen, Mr. S. C.
Sen, Pandit Satyendra Nath.
Singh, Kumar Gupteshwar Prasad.
Singh, Mr. Gaya Prasad.
Sitaramaraju, Mr. B.
Thampan, Mr. K. P.
Uppl Sahab Bahadur, Mr.
Ziauddin Ahmad, Dr.

NOES—56.

Abdul Hye, Khan Bahadur Abul
Hasnat Muhammad.
Acott, Mr. A. S. V.
Ahmad Nawaz Khan, Major Nawab.
Allah Baksh Khan Tiwana, Khan
Bahadur Malik.
Amir Hussain, Khan Bahadur Saiyid.
Anklesaria, Mr. N. N.
Anwar-ul-Azim, Mr. Muhammad.
Bajpai, Mr. G. S.
Bhore, The Honourable Sir Joseph.
Bower, Mr. E. H. M.
Dalal, Dr. R. D.
DeSouza, Dr. F. X.
Dunn, Mr. C. W.
Dutt, Mr. G. S.
Fazal Haq Piracha, Shaikh.
Fox, Mr. H. B.
Graham, Sir Lancelot.
Greenfield, Mr. H. C.
Gwynne, Mr. C. W.
Haig, The Honourable Mr. H. G.
Hezlett, Mr. J.
Hudson, Sir Leslie.
Jhwarengji, Nawab Naharsingji.
Ismail Ali Khan, Kunwar Hajee.
James, Mr. F. E.
Jawahar Singh, Sardar Bahadur
Sardar.
Mackenzie, Mr. R. T. H.
Macqueen, Mr. P.

Meek, Dr. D. B.
Metcalf, Mr. H. A. F.
Mitter, The Honourable Sir Brojendra.
Moore, Mr. Arthur.
Morgan, Mr. G.
Mukherjee, Rai Bahadur S. C.
Nayudu, Rao Bahadur B. V. Sri Hari
Rao.
Nihal Singh, Sardar.
Noyce, The Honourable Sir Frank.
Parsons, Sir Alan.
Rafiuddin Ahmad, Khan Bahadur
Maulvi.
Raghubir Singh, Kunwar.
Rajah, Rao Bahadur M. C.
Rau, Mr. P. R.
Ryan, Mr. T.
Sarma, Mr. R. S.
Schuster, The Honourable Sir George.
Scott, Mr. J. Ramsay.
Sher Muhammad Khan Gakhar,
Captain.
Singh, Mr. Pradyumna Prashad.
Smith, Mr. R.
Sorley, Mr. H. T.
Suhrawardy, Sir Abdullah-al-Mamun.
Tottenham, Mr. G. R. F.
Wilayatullah, Khan Bahadur H. M.
Yakub, Sir Muhammad.
Yamin Khan, Mr. Muhammad.
Zulfiqar Ali Khan, Sir.

The motion was negatived.

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

The Assembly re-assembled after Lunch at Twenty Minutes Past Two of the Clock, Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

Mr. S. C. Mitra: I beg to move:

"That in sub-clause (2) of clause 4 of the Bill, the words 'to harass any public servant in the discharge of his duties, or' be omitted."

Sir, having failed to induce the House for the deletion of the whole clause, I am now suggesting some amendments to purge this clause of some of its objectionable features. The words are "harass any public servant". The phrase is very vague, as has been submitted by some Honourable Members in their speeches. The dictionary meaning is "to repeat, to worry, or to vex with repeated request". Now, "to be worried" depends more on a person's temperament, and on the condition of his health, than anything else. What I mean is that this is more a subjective affair, and it will depend upon the particular public servant who may get worried or troubled by a particular conduct. I think it is not possible even for Government to set up a standard of measure as to what will amount to harassment. Different Magistrates have different ideas, and

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[Mr. S. C. Mitra.]

equity varying with the Chancellor's foot, the standard of harassment will vary with the temper of each Magistrate. Therefore, even if it be found necessary to have a clause of this type, I suggest that at least the words "to harass any public servant in the discharge of his duties" should be omitted. Sir, I move.

Rao Bahadur B. V. Sri Hari Rao Nayudu (Madras: Nominated Official): Sir, I rise to oppose the amendment. Honourable Members of this House are fully aware, Sir, that the Congress has always been preaching the boycott of all Government officials, as a plank in the civil disobedience movement. What is the sin, Sir, that the Government officials have committed to deserve social persecution? They say, we are soon having at least provincial autonomy. The Madras Province, for instance, from which I come, is going to have 215 legislators. Now, Sir, can it be said that these 215 legislators alone or even double their number can govern the whole Presidency?

Sir Muhammad Yakub: That is not the question. The question is that that phrase be deleted.

Rao Bahadur B. V. Sri Hari Rao Nayudu: They can only legislate. Sir, legislation is only a means to an end and not the end itself. The end is the good administration of the country. Can any Legislature carry out their legislations without the help of the administrative machinery? If tomorrow the Congress comes into power, there will surely be somebody sitting in the Opposition. In that case, will the Congress allow Government servants to be disloyal to the party in power? And does any sane man contend that Government servants should not whole-heartedly carry out the orders of the Government of the day? If not, in such a case, should the Opposition, to whatever party it may belong, advocate persecution of these Government servants, simply because they are loyal to the party in power, however autocratic that party may be?

In politics, friends of today may be enemies tomorrow. Honourable Members might have seen in the newspapers about the present relations between Mr. De Valera, President of the Irish Free State and his erstwhile comrade, Mr. Cosgrave. What would become of Mr. De Valera's Government if the army and the police were to side today Mr. Cosgrave, and disobey the existing Government's orders?

I contend, Sir, that a good public servant is as much an asset to the country as, if not more than, a good legislator. It is he who has to bear the brunt of the whole administration. It is he that really comes in direct contact with the masses and it is to him that the vast population look for sympathy and impartiality. There may be, I admit, Sir, black sheep in Government service, as there are in every walk of life. But such black sheep can be removed from service only with the help of public opinion and not by persecution of all Government servants. My Honourable friend, Mr. Puri, had admitted during the Simla debate that the majority of the people had still got faith in the impartiality of the Courts. Government servants must be thankful to him even for such small mercies; may I point out to him, Sir, that whether the future generations will continue to enjoy the benefits of this impartial administration of justice, which is largely due to the high traditions of the Indian Civil

Service during the last 150 years, depends more upon how the Government servants are allowed to discharge their duties without fear of persecution by any political organisation whether it may be in power or in the Opposition. In my humble opinion, Sir, public servants should not be drawn into the whirlpool of politics.

Thanks, Sir, for the foresight of the present Government, the establishment of the Public Service Commissions goes to a great length to avert the dangers to which public servants may have to be exposed otherwise, and, in our Presidency, Sir, the Legislature has very wisely transferred recently the power of appointing even the Public Service Commissioners from the Governor-in-Council to the Governor himself.

It is a great consolation to all Government servants to learn that the services may not be hereafter used as pawns by politicians. I should say that the Government have done another piece of good service to the public servants by including in the Bill, which we are now discussing, the provisions relating to the boycott of public servants.

I would appeal in this connection to all Honourable Members of this House not to forget that public servants carry out their orders. My Honourable friend, Mr. Ramakrishna Reddi, has said: "I have a duty to perform to my constituency". Sir, may I appeal to the Honourable Members of this House, elected and nominated, that they have a duty as well to perform to the thousands of public servants who carry out their orders in the face of all difficulties? If the legislators cannot support the public servants in the difficult task of carrying out their own orders, how can they expect to get good recruits to the public service in future? Surely they can get public servants, Sir,—Magistrates, Collectors and even High Court Judges,—on a pay of Rs. 100 per mensem with the prospect of making hundreds and thousands of rupees per mensem in other ways. But to have a contented public service to complement a good Legislature for the good administration of the country, every reasonable safeguard should be given to the Government servants by the Legislatures, to prevent their being persecuted and harassed in the lawful discharge of their duties. Legislation is only the outcome of past experience. My Honourable friends cannot shut their eyes to facts. They all know to what amount of persecution public servants have been subjected to in the discharge of their duties in the civil disobedience movement of 1930-31 and in the non-co-operation movement of 1920-21. There were 136 resignations by village officers in 1921-22 in the Kistna District of the Madras Presidency where I was then serving, and there were wholesale resignations of village officers in the Telugu Delta Districts, especially in Guntur and Godavari Districts, where the Congress movement was very strong. To my knowledge, 29 Government servants, other than village officers and village servants, resigned in those two periods. It is only on account of the strong attitude of the Government that there have been very few resignations this year in the Madras Presidency. Nearly 500 patels and 1,000 village servants resigned in the Districts of Surat, Ahmedabad, Kaira and Broach, as stated by my Honourable friend, Mr. Sorley, in the first month of the civil disobedience movement in 1930. In these districts, village officers who did not resign were not allowed free access to the village water supply, and the ordinary necessities of life were not allowed to be sold to them. Village officers were threatened with boycott and social ostracism. Supplies and means of transport were

[Mr. B. V. Sri Hari Rao Nayudu.]

withheld from touring officers. Even officers of higher grade were given notice to quit the houses they were occupying. It is only the strong action of the Government that has put down this boycott in this year's movement. It, therefore, behoves all Members of this House to see that similar persecution is not repeated at any time in future, irrespective of the existence or not of the civil disobedience movement. The Select Committee has removed all unreasonable restrictions which, in their opinion, the provisions of the original Bill imposed on the fundamental rights of citizenship. But I would earnestly appeal to the House that Honourable Members should also bear in mind that Government servants are entitled to equal rights of citizenship in this country as anybody else whom my Honourable friends may represent, and that Honourable Members should not forget this fact while giving their best consideration to the recommendations of the Select Committee on this clause and the amendment now proposed thereon. (Cheers.)

Mr. Gaya Prasad Singh (Muzaffarpur cum Champaran: Non-Muham-madan): I have listened with amused interest to the written essay of my Honourable friend who has just sat down; but I wonder whether all that he said on the present occasion was relevant to the specific motion before the House. He should have reserved his speech for the third reading of the Bill.

It is quite natural that an official Member should only be too glad to support a motion which fortifies him and his confreres in a position of privilege and power, and anything that tends to bring him down to the level of the ordinary citizen should be resented by him. I hold that this clause of the Bill seeks to entrench the ordinary official into a position of privilege which is denied to other classes of ordinary citizens. My objection is to the whole clause itself, but since it was not found possible to delete the whole clause, I have to accord my support to the amendment of my Honourable friend which is under discussion. The word "harass" is really an indefinite expression which might mean anything or very little. What might harass me, for instance, may not be sufficient to harass a man of a different temperament. It is in this view of the matter that the word "harass" which is incapable of precise definition has found a place in this clause. "Harass" might mean fatigue, to exhaust, or to tire and, so on. It might have other meanings. I am not going to enumerate all the possible meanings which the word might connote in an ordinary dictionary, but this expression "harassing a public servant in the discharge of his duties" is really a vague expression. Now, with regard to the word "discharge of his duties". I should like to enquire from my Honourable friend, the Home Member, or his colleague on his right, whether this clause is going to apply to a public servant who is actually on leave. This was a matter which we discussed in the Select Committee, and the impression which I carried with me was that this clause is going to apply also in the case of a public servant who may be on leave, because the elements enumerated in this clause might induce him to terminate his service even when he is on leave. Therefore, it is quite necessary for the Government to define the precise scope of the expression which is used in this clause. Since there has been no precise definition of this clause, I am only compelled to ask this specific question of the Government whether this clause is going to operate in the case of a Government

servant who is actually on leave. If so, the position becomes more dangerous. With these words, I support the motion which is now before the House.

The Honourable Mr. H. G. Haig: Sir, it is necessary to remember that in order to establish an offence under this clause, intention has to be proved. It is not, I think, a reasonable suggestion that the intention which has to be proved should be strictly limited to only certain of those objects which the boycotters are pursuing. It is perfectly true that in some cases the object of the boycott is to make the public servant terminate his services, but it cannot be said that in every case that is the precise intention and, indeed, it would be exceedingly difficult to prove. The more general intention is to prejudice or to harass a public servant in the discharge of his duties, to cause him to fail in his duties, to dishearten him, to make it difficult for him to act as he should act. It is necessary, therefore, if this clause is to be effective, that this general provision should be maintained. The particular objection which has been taken to the word "harass" might be taken to whatever word we choose. Actually in the original draft the word used was "prejudice". Certain Honourable Members of the Select Committee, among whom, I think, probably my Honourable friend, Mr. Gaya Prasad Singh, was numbered, said that that word was not a suitable word. We looked through the dictionary and we tried to secure a suitable word and, after a good deal of reflection and discussion, this was the word selected as most suitable to express what we had in our mind. With regard to the particular point that has been put as to whether it is possible to use this clause in regard to a public servant on leave, it depends entirely on the circumstances. It may well be that when a public servant is in his home, pressure may be brought to bear upon him through the method of boycott intended to make him terminate his services. In such a case, it would undoubtedly apply to a public servant whether he is on leave or whether he is anywhere else.

Mr. B. V. Jadhav: The question is whether "harassment" will apply to an officer on leave.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in sub-clause (1) of clause 4 of the Bill, the words 'to harass any public servant in the discharge of his duties, or' be omitted."

The motion was negatived.

Mr. S. C. Mitra: Sir, I move:

"That in sub-clause (1) of clause 4 of the Bill, before the word 'duties' the word 'lawful' be inserted."

Having failed to carry the previous amendment, I now like to have the word "lawful" inserted before the word "duties", so that it may be more specific. It has been argued by Honourable Members on this side that the duties of particular public servants may not be known and some officers in their enthusiasm may get into their head an exaggerated sense of their duty. If it is not specifically said that the duties here are intended only to mean lawful duties, then there may be chances for an abuse of this clause. If a superior officer conveys an order to an inferior

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officer, that officer is bound to carry out that order, whether it is legal or illegal. To make these cases specific and definite, I suggest that Government might accept the addition of the word "lawful" before the word "duties". Sir, I move.

Mr. K. P. Thampan (West Coast and Nilgiris: Non-Muhammadan Rural): Sir, I beg to support this motion. Sir, it may be said that in law the use of the word would imply only duties that are lawful; but, Sir, the word "duties" has very wide meaning and it is, I submit, proper that the meaning of it should be restricted. I shall illustrate my point by narrating the instance of the behaviour of an Inspector of Religious Endowments in Madras, whose name I shall not mention here. He went to a temple in Malabar and, having examined the accounts and other things, he went to worship in the temple. Now, the custom there is that people should leave their sandals and shoes outside, but this gentleman thought it *infra dig* to take his sandals off. There would have been trouble if some elderly men had not intervened. Of course, as a matter of fact, it was not his duty to go there with shoes on. Sir, such instances of abuse of duty very often occur, and, in view of the fact that we are bringing within the scope of the clause all kinds of public servants, including those of the local boards, and utility service companies, it is highly desirable to restrict the meaning of the word as far as possible. Sir, it is one thing in the case of the higher officials, but it is quite another in the case of illiterate and low-paid servants of taluqa boards and utility services. The chances of abuse among the latter class are very much more than among the educated and well paid public servants. Then, there is the point raised by my Honourable friend, Mr. Jadhav, about the duty of officers on leave. Do they discharge any lawful duty while on leave? It is better, therefore, to avoid all such difficulties by inserting the word "lawful" before the word "duties".

Mr. B. V. Jadhav: Sir, I rise to support the amendment. As the definition of the words "public servant" has been extended even to servants of local bodies, I think the adjective "lawful" should be prefixed to the word "duties" in order to properly explain and confine the meaning of the word. We know that the presidents and chairmen of the managing committees of some of these local bodies are very important persons and that some of the low-paid subordinates are working for them in capacities which cannot exactly be called their duties. Now, as the order of a superior officer must be obeyed by a servant, a servant may look upon any order of the chairman or the president as one which he ought to discharge, although that may not be his proper or lawful duty. Therefore, when one happens to trouble or harass such a servant, that one ought not to be hauled up before a Court of law for committing a crime under this clause. For this reason, Sir, I submit that the word "lawful" ought to be inserted before the word "duties".

The Honourable Sir Brojendra Mitter (Law Member): Sir, if I were convinced that there was any ambiguity in the word "duty" and that in order to clear that ambiguity the word "lawful" should be inserted before the word "duties", I would not have hesitated to accept the amendment. But my submission is that by using the word "lawful", you would be introducing an ambiguity which is not there now, and I shall presently

make my position clear. The word "duty" in law means "a legal obligation", and, at the risk of annoying my friend, Mr. Amar Nath Dutt, I shall again quote from Salmond's Jurisprudence. Sir, Salmond says:

"A duty is an obligatory act, that is to say, it is an act the opposite of which would be a wrong. Duties and wrongs are correlatives. The commission of a wrong is the breach of a duty, and the performance of a duty is the avoidance of a wrong."

Sir, in law, the word "duty" has a definite connotation. If you introduce the word "lawful", what would the implication be? If you say "in the discharge of his lawful duties", could there be discharge of an "unlawful duty"? What is the antithesis? An unlawful duty would be a contradiction in terms, because "duty" means "a legal obligation". That being so, by using the word "lawful", you immediately bring in the idea of the possibility of an unlawful duty, which is of course absurd.

Sardar Sant Singh (West Punjab: Sikh): May I interrupt my Honourable and learned friend? I must draw his attention to the fact that in sections 382, 388 and 353, of the Indian Penal Code, the expression used is "in the lawful discharge of his duty as a public servant".

The Honourable Sir Brojendra Mitter: Sir, I am not dealing with the phrase "lawful discharge": I am dealing with the phrase "lawful duty"; and every word must be read in its proper context. I am dealing with clause 4 now. The interruption to my mind is irrelevant. With regard to Mr. Jadhav's point, the discharge of a duty by a public servant is the discharge by him of a duty imposed upon him by law, and not a duty such as he conceives it to be. Therefore, there is no ambiguity in the word "duties". The addition of the word "lawful" would introduce ambiguity. I oppose the amendment.

Sardar Sant Singh: Sir, as the whole clause has been retained by the vote of a majority of this House, I am not at liberty to discuss it as such, but taking the context of the clause, it will be necessary to reduce, as much as one can possibly do, the rigor of its working. Sir, it will not only be in the interest of the Opposition that a law should be very definite, but it should be such as will in practice enable those who put it to actual use to put the right interpretation upon the terms used. The clause, as it now stands, states:

"Whoever, with intent to harass any public servant in the discharge of his duties, or to cause him to terminate his services or fail in his duty,"

Here the words are "in the discharge of his duties". We know that it would be the duty of a public servant to go to a place when his superior officer asks him to go there. But would that be his lawful duty? It may be his duty to obey the superior officer in his own interest, but it would not be his lawful duty as a Magistrate. Similarly, a public servant in any other capacity will be in the same position. Take, for instance, a railway servant. He may also be doing his duty when he is asked by a Stationmaster or some other superior officer to go to the town and fetch something. The word "duty" will convey the sense of obedience or loyalty to the superior officer or to the Court to which he belongs, but it would not be a lawful duty, a duty imposed by the Statute under which he is working at the time. It may be a duty of a servant to obey his master even if the order of the master be unreasonable. I will illustrate

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it by an example which will look absurd on the face of it. Supposing a master asks his servant to murder a person, what will be the result? It will be the duty of the servant to murder the man, and if anybody harasses him in the performance of his duty, he will be brought under the purview of this clause. (A Voice: "The master may be mad.") It may be so. That is why I preceded it by saying that it may look to be an absurd example, but it is not really so absurd. Take, for instance, the case of a soldier. An order is given by the superior officer to fire and, later on, the order is found to be illegal and the man is hauled up for murder. The question before the Court and the jury would be whether the man was guilty of murder or not. The defence may be taken that he was performing his duty. He stood between two cross fires—either to be court-martialled for not obeying the order of the Military authority or to be sent for by the civil authority, put in the lock-up and tried for man-slaughter. These are not absurd examples, and neither the persons who gave such orders were mad. It was the *bond fide* judgment of the officer to issue the order, and it was the *bond fide* duty of the soldier to carry out that order. These are not imaginary cases; these are the reported cases. If the amendment asks that there should be some limit placed on that duty, it is a fair request. My friend objects to the word "lawful" and he is probably enmeshed in the words "lawful discharge of his duty". Let the amendment come from the Honourable Member himself that it should be the lawful discharge of his duty as a public servant who would be protected. They will thereby limit the scope of the clause and will help in the interpretation of it. I, therefore, support this amendment.

The Honourable Mr. H. G. Haig: Sir, I need not say more than one word, because my Honourable colleague has already dealt with the point of law. All I wish to say is, that it will be for the Court to interpret what is the duty of a Government servant, and I do not think the Court will have very much difficulty in arriving at a conclusion. My Honourable friend, Sardar Sant Singh, seemed to be very sympathetic to Government servants and suggested that they were constantly in doubts and difficulties as to what was their duty. Well, Sir, as a Government servant, I can assure him, that that is not a case that frequently arises. I never remember myself being faced with any great perplexity in knowing what was my duty as a Government servant and what was not, and I do not think that the Courts will have any difficulty in solving these problems.

Sir, I oppose.

The Honourable Sir Brojendra Mitter: May I answer a question which was directly put to me by Sardar Sant Singh? My Honourable friend mentioned some cases of a soldier shooting, and so on, but he forgot that in all those cases under the sections of the Indian Penal Code it is the duty of the accused which is before the Court. Here it is not the duty of the accused, but of the public servant.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member can only make a personal explanation at this stage.

The question is:

"That in sub-clause (1) of clause 4 of the Bill, before the word 'duties' the word 'lawful' be inserted."

The motion was negatived.

Mr. S. C. Mitra: Sir, I move:

"That in sub-clause (1) of clause 4 of the Bill, the words 'to deal with, or' be omitted."

The purpose of these amendments of mine is to improve the clause if it is at all possible to do so. Clause 4 reads thus:

"Whoever, with intent to harass any public servant in the discharge of his duties, or to cause him to terminate his services or fail in his duty, refuses to deal with . . ."

Now, this phrase "to deal with" is extremely vague and indefinite. It has been argued previously by my Honourable friend, Mr. Sen, that the dictionary meaning of the phrase "to deal with" is to associate with or to do business with. It is required that every body should be compelled under the pressure of law to associate with or to do business with the Government officials, the refusal of which will bring one, under the purview of this clause. If it is the purpose of the Government to spread the net too wide to catch all and sundry under some pretext or other, of course such phrases will help them: otherwise I do not see any reason why Government should not specifically say what they want the public at large to do by the public servant. It has been said, the public is to let on reasonable rent houses to, cultivable lands for, and render other customary services to, public servants, but what Government mean by the words "deal with" is not clear to me. I do think that this clause at least should enact a law which should be very specific and definite so that even an ordinary man in the street may understand what may be demanded of him by law. So, I suggest that at least this phrase "to deal with" might be omitted from this clause.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Amendment moved:

"That in sub-clause (1) of clause 4 of the Bill, the words 'to deal with, or' be omitted."

The Honourable Sir Brojendra Mitter: Sir, my Honourable friend Mr. Mitra's objection to the expression "deal with" is that it does not convey any clear idea of what is in the mind of the Legislature. Sir, "to deal with" is not a technical expression. It is a popular expression and the meaning of it is to be gathered from the dictionary, and the meaning of it has already been mentioned by my Honourable friend himself. One of the meanings is "to do business with". That is precisely what we mean. When a public servant goes to a village, he wants to go about from place to place. Suppose taxi-cabs ply for hire there and the owner of the taxi-cabs refuses to deal with him, because he is a public servant, then he would come within the mischief of this clause. Or take the case of a village grocer whose business is to supply groceries to anybody who is willing to pay the proper price. If the grocer refuses to supply goods to a public servant, then that grocer refuses to deal with that public servant.

Instances may be multiplied, but it is not necessary that in a clause you should enumerate all the various things which might come within the purview of dealings between man and man. The words "supplying goods" were in the original Bill, but were omitted in the Select Committee. I have tabled an amendment for the insertion of these words

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which will remove all ambiguity whatsoever as to what sort of dealings we are thinking of. From the whole clause it is abundantly clear that we are thinking of residence, we are thinking of locomotion, we are thinking of food and we are thinking of customary services to which a man, living in ordinary civilised society, is entitled, like the services of a washerman, the services of a sweeper, the services of a barber and things of that sort. When one reads the whole clause, he can have no doubt in his mind as to what sort of dealings we are thinking of. In order to make it more clear, I have tabled an amendment. I submit, the words "deal with" are not ambiguous. Sir, I oppose the amendment.

Mr. S. C. Sen: I had no intention of speaking on this motion as I had already made my submission as regards these words "deal with" in the speech which I already delivered. Sir, the Honourable the Law Member has explained to us what "to deal with" means. What is the dictionary meaning of the words "deal with"? There are two meanings in the dictionary, one is "associate with", and another is "to do business with". He is not dealing with a man when he refuses to associate with him.

The Honourable Sir Brojendra Mitter: When there are several meanings to a word, the meaning which is appropriate in the context is to be adopted. The meaning "to associate with" would be absolutely out of context.

Mr. S. C. Sen: Well, Sir, I am a Solicitor of some standing and I am supposed to know the meaning of every word which we use in our documents. Therefore, Sir, the explanation which has been given by the Honourable the Law Member is not new to me. But, Sir, what is the context here? The context is "to deal with on the terms on which such things would be done in the ordinary course". The barber of my village may come to me and say: "I want to associate with you upon the terms in which I am accustomed to do in the ordinary course". Is there anything wrong in the context about that? So both the meanings can be attached according to the whims and fancies of the person who tries the case. That is the reason why I say that the expression "to deal with", having regard to the context, leads us to absurdities.

The Honourable the Law Member has tabled an amendment to make the meaning perfectly clear. I would have fully agreed with him if he had stopped short of two words in the amendment which he has tabled. The amendment was originally tabled in the name of the Honourable the Home Member, but it is now given in the name of the Honourable the Law Member. The amendment runs:

"That in sub-clause (1) of clause 4 of the Bill, after the words 'refuses to deal with' the words, 'whether by supplying goods to, or otherwise', be inserted."

Well, Sir, what is the meaning of the expression "or otherwise"? Every day we use the words "or otherwise" simply to confuse people by vagueness. I admit that. We include in the words "or otherwise" everything we can conceive of. So, how is the Honourable Member removing the admitted ambiguity by the amendment which he is going to move? If he will agree to the deletion of the words "or otherwise", I think, Sir, he will remove the ambiguity and will make the clause applicable only to the case of supplying goods. With these words, I support the amendment.

Sardar Sant Singh: Sir, this expression "to deal with" as well as other expressions that follow are a serious inroad upon the rights of ownership of property of individuals. Herein a provision is made that a person is to be penalised, simply because he refuses to deal with a particular individual who happens to occupy a place in the service of the State. What is required is that he has to deal with public servants in all the terms described in the clause, that is, on such terms as such things would be done in the ordinary course. My objection to this serious inroad on the ownership of property is this. Supposing a person wants to purchase lands, I think it has been made clear in this House that this provision is not limited to those cases only when the public servant is on duty at a particular place where he is posted, but this provision is also applicable to the public servant when he is on leave. Take the case of a public servant who goes to his original home on leave and there he wants to purchase property. Well, a bogus offer is made to the owner that he should sell his property for Rs. 2,000, while the property is really worth Rs. 10,000. The public servant goes there and asks the owner: "here is an offer for Rs. 2,000. I make you the same offer and let this property be sold to me for Rs. 2,000". Or, take another instance; properties generally pass for certain considerations at much lower value than their original worth. Well, those considerations do not exist in the case of the public servant. He makes an offer saying that "you are already parting with this property or intend to part with this property at a certain consideration. I claim preference over the intending purchaser, otherwise you are to be penalised if you do not deal with me". Will this not be a serious inroad on the right of ownership of property? Those Honourable Members, who sit quietly today or who vote with the Government, will find that, if this clause is seriously worked in practice, then, the valuable right in the property, which they possess, would be taken away. My submission is, Sir, that if the expression "to deal with" means to do business, there may be several considerations on account of which a person may not like to do business with a public servant. Take the instance of a public servant who is a bad paymaster. A shopkeeper says: "I refuse to deal with you." Well, generally when a shopkeeper does not want to deal with a particular individual, because he is a bad paymaster, then the shopkeeper tells that individual: "I have not got the thing you ask for." If the public servant could prove that the shopkeeper had the article in question which he asked for and he refused to deal with him, in that case the shopkeeper is penalised. Are you not aware, Sir, of many instances where Government servants have been sued for the recovery of rent of houses they occupied, for the recovery of the cost of goods they purchased from the market which were not paid for? Is there any town which is free from such suits? Are not the Courts in all towns full of such suits and are not decrees obtained against public servants? Are there no public servants whose salaries are deducted on account of Court decrees and attachment of their salaries are made through the Accountant General? Here, by enacting a clause like this in the Bill, you are making a serious inroad upon the liberty of actions, liberty of trade and commerce of an individual for no fault of his. Do the Government mean to say that if a shopkeeper is prosecuted, he could go forward and make a defence in the open Court to the effect: "here is a public servant. I did not deal with him, because he is a bad paymaster." Will such a defence be a valid one and will this exculpate the individual who is charged with such offence? I ask this question in all seriousness. If the clause is retained, as it stands, and if a person is dragged into Court, because he refuses to

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deal with a public servant, and if that person gives out in open Court the real reason why he refused to deal with the public servant, namely, that he was a bad paymaster, then that person may be run in later for defamation. If that is said to a public servant, he will go and lodge information against him. Therefore, if he gives the right reason, he is in for defamation; if he refuses to give the right reason, he is in for this offence. Where is the safety? The whole safety is taken away by keeping this expression. I think it is quite logical that this general expression should be omitted from this clause.

The Honourable Mr. H. G. Haig: Sir, my Honourable friend, Mr. Sen, is no doubt reinforced by the authority of the dictionary, and is better acquainted with the meaning of the words "deal with" than I am. But I must say that it was news to me to hear that "deal with" means "associate with".

Mr. S. C. Sen: That is the meaning given by the Oxford Dictionary.

The Honourable Mr. H. G. Haig: I bow to his authority, but I will only say that it is not to my mind the ordinary, normal meaning of the phrase. I should say, without attempting any dictionary definition, that it means "to have transactions with", and no question of association to my mind arises.

Sardar Sant Singh attacked the phrase on the ground,—I took down his words,—that a man would be punished, simply because he refused to deal with somebody. Sardar Sant Singh is well aware that another matter has to be proved beyond refusal to deal with any person and that is, as we have repeated so many times in this House, what was the intention. That is vital; it is not a mere refusal to deal with a person, but refusal to deal with a person with an intention to harass him in his duties as a public servant. And there can be no question of refusing to sell property in my opinion coming within this clause. There is no obligation on anybody to sell his property to anybody else. In the case of a shopkeeper, in the case of a person who offers anything for hire, there is a presumption that he should, unless for some good reasons, supply those goods or those services, and there is then some possibility of proving that his refusal is a refusal with a bad motive. But in the case of selling property there is no possibility of proving such a thing, in my opinion.

Sir, I oppose.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in sub-clause (1) of clause 4 of the Bill, the words 'to deal with, or' be omitted."

The motion was negatived.

The Honourable Sir Brojendra Mitter: Sir, I beg to move:

"That in sub-clause (1) of clause 4 of the Bill, after the words 'refuses to deal with' the words 'whether by supplying goods to, or otherwise' be inserted."

In the discussion on the previous amendment we covered a lot of ground and it remains for me only to explain the words "or otherwise" to which my clever friend, Mr. Sen, took exception. Here we are giving an illustration of dealings; and one of the illustrations is supplying goods. Mr. Sen says, what do the words "or otherwise" mean? Sir, they would cover other necessary transactions, and I shall mention only a few. Take the carriage of goods. A public servant goes to a railway station and his lodgings are a mile away. He wants the services of porters who ordinarily carry goods for a remuneration. If a porter at the station refuses to deal with that man, merely because he is a public servant, he would come within the mischief of this clause. That is one illustration; I will give another. Take the supply of transport. An owner of *ticca-gharis* keeps a number of vehicles at the railway station and plies them for hire. If he refuses to let his *ticca-ghari* to an officer, because he is an officer, he would come within the mischief of this clause, provided always that the intention mentioned in the clause is present. I give another illustration. Suppose a man wants to have his horse shod. He goes to the farrier who ordinarily does this sort of work and he refuses to shoe the horse of the public officer, because he is a public officer, the clause comes in. For the sake of clarity, we give one illustration and "or otherwise" would cover necessary transactions of a similar nature. I hope the House will have no hesitation in accepting the amendment.

Mr. S. C. Mitra: Sir, I would have been glad to accept this amendment had the words "or otherwise" not been inserted. My objection to the words "deal with" was that it was so indefinite that people will not be able to ascertain their real position. Now, after the speech of the Honourable the Leader of the House, it is clear that the words "or otherwise", according to his own illustrations, might be explained in a thousand ways. That is what should be avoided in enacting laws so that even the ordinary layman may understand what specifically is wanted by Government by these provisions. Really it is an improvement to say that "deal with" refers to supplying goods. That shows definitely that Government are anxious to have the co-operation of the people as regards this one element, but the words "or otherwise", as has been explained just now, may mean anything; and certainly it is open to the objection of indefiniteness. If Government agree to take away the words "or otherwise", there will be no objection from this side; otherwise we will oppose this amendment.

The Honourable Mr. H. G. Haig: Sir, I do not think there is anything I need add to what my Honourable colleague has already said, except that, by inserting these words, we really do, as he has suggested, make the meaning of the words "deal with" more definite than before, and at any rate remove all possibility of Mr. Sen's interpretation of "associating with".

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in sub-clause (1) of clause 4 of the Bill, after the words 'refuses to deal with' the words 'whether by supplying goods to, or otherwise' be inserted."

The motion was adopted.

Mr. K. P. Thampan: Sir, I beg to move:

"That in sub-clause (1) of clause 4 of the Bill, the words 'or land not being cultivated' be omitted."

[Mr K. P. Thampan.]

It has been provided that houses usually let for hire ought to be given to Government servants. But I cannot understand why lands should be given to these people.

An Honourable Member: For vegetable orchards.

Mr. K. P. Thampan: I am glad to find that the Select Committee has considerably improved the original draft. According to the original draft, lands of all kinds had to be let and could not be evicted from these people. In Malabar and other places, under the ryotwari system, very often the landholders evict the lands from the tenants. It may happen that Government servants, including higher officers, are the relatives of the tenants. My own family has got about a score of Deputy Collectors, tahsildars and police inspectors and such kind of Government servants who are our tenants. Of course, they do their duty elsewhere, but the manager or some member of the family holds the land. If we are to sue for the eviction of such lands, it might be alleged that the motive of our eviction was to harass the Government servant concerned. It is therefore, a great relief that the Select Committee has thought it desirable to exclude from the scope of this Bill cultivable lands; but, again, the question of land remains there. Lands are put to several uses and, as a landlord, I for one can not allow this thing to go through unprotected. There is no use, as far as I can see, of lands for Government servants for the discharge of their duties. This privilege is extended also to the members of his family. In the undivided Hindu families in Malabar, there are in certain houses as many as 250 or 300 members and this is certainly a very wide privilege that is likely to be abused. It is open to any of these wide circle of people to trace their relationship in cases of eviction or refusal to let out a land—and the very fact that they live in the same family or *tarwad* is sufficient proof for it—and makes out the case that the intention of the landlord was to harass the Government servant. It is therefore highly risky to keep the word 'land' there. I therefore move that this word be deleted.

The Honourable Mr. H. G. Haig: Sir, this is a very simple provision and I think a very reasonable one. The object is that Government servants should be able to secure some kind of accommodation in places where their duties may take them; and we are so reasonable as to admit that in some places it may not be possible to get a house; and, if that is so, surely we cannot deny them the right to have some place where they can spend the night and rest and pitch their tents. It is the case that where there is a boycott of this kind, it may not only be impossible to find a roof to shelter the Government servant, but that even the zamindars may refuse to allow him to pitch a tent. It is, with a view to conditions of that sort, that we have inserted this provision in the Bill.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in sub-clause (1) of clause 4 of the Bill, the words 'or land not being cultivated land to' be omitted."

The motion was negatived.

Mr. S. C. Mitra: Sir, I move:

"That in sub-clause (1) of clause 4 of the Bill, the words 'or to render any customary service to such public servant or any member of his family' be omitted."

It has been urged from this side that it will be very difficult to know what are the customary services. Take a simple example: an officer may think that it is customary for him to have *salaams* from all the people that may go to meet him. I do not grudge it to an officer who can earn them by his good behaviour, but to enforce it by an enactment of law

Sir Muhammad Yakub: Is it a customary service?

Mr. S. C. Mitra: Customary service is not explained anywhere, that is my complaint; and an officer may think that this is a customary service for him to receive those *salaams*; and my Honourable friend, Sir Muhammad Yakub, may know what were the troubles in the jails about this *sarkar salaam*

Sir Abdulla-al-Mamin Suhrawardy (Burdwan and Presidency Divisions: Muhammadan Rural): I know it.

Mr. S. C. Mitra: My teacher knows it all right, because he was an Honorary Visitor of jails for a long time. So my complaint is that it is not known what is customary service. In my part of Bengal, in villages, barbers, washermen and potters always get lands or, what we call, *service jagirs* and, in return, they do shaving and washing, and supply pots free, because they have *jagir* lands free from a very long time. Will all these officers demand free shaving and free washing and free supply of these things? It is so vague: that has been my complaint against this clause all along, that it will be perhaps an instrument of tyranny for petty officials, more particularly when it is known that it has become the custom for the lower classes of police officers to get almost everything free. That has become customary; even the *begar* system was customary in India for a long time. That is the reason why I want that at least these particular words might be omitted.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Amendment moved:

"That in sub-clause (1) of clause 4 of the Bill, the words 'or to render any customary service to such public servant or any member of his family' be omitted."

Mr. Lalchand Navarai (Sind: Non-Muhammadan Rural): Sir, I am really sorry to see that none of the vague words which appear in this Bill appear to the Honourable the Law Member as vague or ambiguous. Every time when it was pointed out that a particular word was ambiguous and vague and that it should be defined, the reply that came from the Government side always was that the meaning was very clear and unambiguous to the Honourable the Law Member, though, at the same time, he referred us to the meaning of such expressions to several dictionaries or to some books on jurisprudence or he took us to the Penal Code for principles or got help from the Criminal Procedure Code and other Statutes. Therefore, it only means that because the Bill has been once drafted, Government want that it must be passed only in the form drafted by them. Sir, that mentality is not a judicial mentality at all.

[Mr. Lalchand Navarai.]

Now, leaving as a matter of fact, the words "duty" and "customary services" are very difficult to define. It was suggested a little while ago that duty would mean and should mean a lawful and legal duty and no other. My friend, Sardar Sant Singh, quoted section 858 of the Indian Penal Code to show that duty always meant a legal or lawful duty. The reply at once came from the other side that the words used in that section were "in the lawful discharge of the duty," and, as such, had no bearing on this clause, but really it is not so. The word in the Penal Code section is exactly the same as you find in this Bill and yet the meaning sought to be given to it is not restricted to a legal and lawful duty. I will read the section for the benefit of the Honourable the Law Member. Section 358, Indian Penal Code, says this:

"Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person, from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment" etc., etc.

Now, I shall quote only one decision on that point which is given at page 658 of Stirling's Criminal Law to illustrate that the duty contemplated is only a lawful duty:

"A peon in the Revenue Department was deputed by a forest officer, under the authority of rules printed at pages 26 and 27 of Nairne's Revenue Handbook, to impress 15 carts for the use of the officer. The accused assaulted the peon and prevented him from seizing his cart. It was held that the foregoing rules had not the force of law, and that a public servant acting under them was not acting in execution of his duty, and consequently the accused was not guilty under this section."

Now, coming to the question of customary service, the Honourable Mr. Dutt this morning cited certain illustrations of customary services which he thought, if refused, would come under the provisions of this Bill. I have a high regard for my Honourable friend, Mr. Dutt, and I take it that he was conscientiously of the opinion that this evil of highhandedness of public servants which was once prevalent has now decreased, but I asked him how far had they improved, but no reply came. My point is that the illustrations he gave have no bearing at all on the point we are discussing. He said that if a public servant goes to a village and there if he does not get food from any hotel keeper, then that hotel keeper will come under this Bill, because, according to him this is a customary duty to render that form of service. I submit with great respect that it is not his duty to render that kind of service. Only those shopkeepers who have been licensed are in duty bound to give food, etc.

Mr. S. S. Dutt: On a point of explanation, Sir. I mentioned a case of hotel keepers who are licensed to supply food in the ordinary course to the public.

Mr. Lalchand Navarai: I am very sorry to hear his explanation, because my friend must know that we have not got hotels in small towns.

Mr. S. S. Dutt: I was referring to a town, Sir, in which this actually happened, and I was not talking of a village, as my friend thinks. I said that in a town all the hotels refused to provide food to a certain body of public servants.

Mr. Lalchand Navarai: I think it is an extreme case in which every hotel keeper refused to give food, but I do not think such a case will have happened. Supposing all hotel keepers, though licensed, refused to give food, why was it that in this case food was not secured from other shops or other keepers in the town? However, if they are making a law with a view to mitigating the difficulty in villages where, it is said, this evil prevails, another difficulty will arise. Suppose a private person goes there, and the shopkeeper in the village refuses to serve him or give him food, what is the provision in the law to show that he is not a free master to give or not to give food?

The other illustration to which reference was made by my friend, Mr. Dutt, was the one mentioned by Raja Bahadur Krishnamachariar about putting a load on a washerman's back. With regard to that also, perhaps my Honourable friend has got no experience, and perhaps he himself is so good as never to get such services from washerman. But the Honourable Raja Bahadur Krishnamachariar was not in his seat to reply to my friend and to point out the inaccuracy of what he said. Now, coming directly to the point, I do not think conscientious District Officers who are present in this House would really deny how things are done in villages, and I might give for their benefit one or two illustrations and ask the Government to tell me whether those cases will come under customary service or not. If they would come, then certainly it would be a very harsh law that is going to be enacted. It is well known that when a District Officer or any such officer wants to encamp in a certain village, usually a chowkidar, who in certain places is called a kotwal, goes in advance and calls upon the village people to collect 20, 30 or 40 men to do work that night for the officer who is expected there to encamp. Now, these poor people are not licensed at all. They are free people. Supposing those people don't render the services demanded of them by the chowkidar for several reasons, because sometimes these chowkidars ask these poor people to pitch tents at midnight or that certain other things should be done at odd hours of the day or night for the convenience of the big officer who is expected to encamp there the next day, or that they are directed to fetch water from long distances at all sorts of odd hours, would such people be prosecuted under this law if the officer feels himself harassed? The next day another officer might want to go for a shikar and would require 100 men. Suppose they are not coming out, and the officer may say: "Oh, it is customary service and we have always been getting the services of these men for our pleasures".

Therefore, I submit, that by introducing the words "customary service" you make the meaning ambiguous. What I want is that the word should be properly and clearly defined. Even the dictionaries will not give a clear meaning of these words. Would the Magistrates ask the Honourable the Law Member every time to send down his interpretation of these words?

The Honourable Sir Brojendra Mitter: A little common sense will do.

Mr. Lalchand Navarai: The Honourable the Law Member has given one or two illustrations in which also I submit, there is very much common sense. In the first place, did not the Honourable the Law Member give us the example of a coolie not serving a public servant? Coolies are licensed and certainly there is a punishment, provided if

[Mr. Latchand Navalrai.]

these licensed coolies fail to do their duty, by their dismissal, but suppose a public servant returns from leave and he asks a coolie at the Delhi station to take his luggage and the coolie refuses to take it, will that coolie come under this clause? The clause is too wide; it could be applied to anything at the mere whim and fancy of the public servant, and I, therefore, support this amendment.

Mr. Arthur Moore (Bengal: European): My Honourable friend, Mr. Mitra, has convinced me that there is not very much substance in this amendment, because of the instance which he took. He held out before us a prospect, alarming or dazzling according to taste, of free shaves for public servants. He talked about foolish officers, but I doubt if any officer would be so foolish as to compel a boycotting and disobedient barber, however civilly disobedient, to shave him (Laughter), or would submit his chin into his hands. (Laughter.)

Sardar Sant Singh: Enough has been said to explain the absurd conclusions to which this particular portion of the clause will lead us. I am not going to add any illustration of mine to the numerous illustrations that have been given in this House, but I want to say a few words on the situation that will arise if this particular provision were allowed to remain in the clause itself.

In the first place, the present Government, who are in charge of this Bill, know fully well that they are not responsible to the people and the people, even if they are exasperated by such foolish and absurd provisions in the penal law of the country, will have no power to turn them out of office. In any responsible country they will find themselves out of office if such absurd provision, as the rendering of customary service being made obligatory, is proposed. It is claimed that such a provision is necessary to safeguard the coming democratic constitution. I submit that it will be a negation of democracy if such provisions are needed in those times. Here, phrases are used in vague, undefined terms without having any clear meaning. For what purpose? To penalise the public later on. It is said that they have provided ample safeguards against the aggrieved person instituting proceedings recklessly, and requiring the proof of intention to harass. These are very good safeguards if the other party has to be heard before the proceedings are instituted. There may be numerous cases in which the vanity of a public servant, the prestige which he thinks attaches to his office, may lead him to harass the people, and the atmosphere prevailing in the particular area will be the deciding factor whether a particular prosecution is to be launched or not. Especially in these days when the atmosphere is vitiated, when an attempt is being made to clear the atmosphere, such a provision is sure to provide a handle of oppression in the hands of the public servant. We know that our strength here is weak and we cannot defeat the Government by our votes. But the Government themselves have a duty towards the administration. Do they think that by demanding customary services they will be improving the situation in the country? Are they going to introduce semi-slavery in India? What is it, if it is not slavery, to be asked to render customary service whether I will it or not, simply because a particular individual will be harassed by my refusal? I suggest that

there is a certain limit to decency, and this provision goes beyond that limit. I will say if you want the smooth running of the administration, you should think twice before you commit yourself to any such provision.

Mr. B. Sitaramaraju (Ganjam cum Vizagapatam: Non-Muhammadan Rural): I am very sorry to find that no Honourable Member who has given support to this wording "customary service" has come out with a proper definition of the phrase "customary service". All those who have laid stress on the word "customary" have given the miss on the word "service", and all those who have laid stress on the word "service", have given the miss on the word "customary". The only explanation that has been tried on the other side of the House, was when an Honourable Member sitting opposite me said that a hotel keeper who has refused to supply food to a Government servant would come under this clause as he failed in doing his duty by rendering the customary service of supplying food. I would respectfully ask the Law Member or any other Member on that side of House to say whether a hotel keeper who is bound to supply food for a certain payment could come under the term "customary service"? Is it customary service? (Mr. Muhammad Yamin Khan: "That comes up under 'deal with'") That comes under "deal with", because it is a business proposition. There you pay a certain amount and the man is bound to give you food, and when a hotel keeper keeps a hotel, he tells the world: "Here I keep a hotel. Come whoever may like. You pay so much, and I give you food." If a discrimination is made against a Government servant, it would come under another part of the clause and it is absurd to suggest.

Mr. G. S. Dutt: On a point of personal explanation, Sir, I said that it would presumably come either under "deal with" if not under "customary service".

Mr. B. Sitaramaraju: I am very glad to hear the Honourable gentleman's explanation, and I shall be more glad still if he would confine himself to the first alternative and realise that it is not a customary service. Sir, what exactly is customary service? It must be first a service, and then that service must be based on a custom. When my Honourable friend, Mr. Mitra, tried to draw the attention of the Government to the fact that he himself was not able to discover what customary service was at the back of the mind of the Government when they talked of customary service, he gave us, by way of illustration, a customary service that is rendered to landlords. A barber or a washerman is bound to render service, and that was and is in several villages, in lieu of the rent he is obliged to pay. That is a customary service which my Honourable friend, the Leader of the European Group, has given the miss when he attacked Mr. Mitra on that point. We want to know whether a similar corresponding duty exists on the part of any section of the public to the Government servant, that simply because he is a Government servant, the public are bound to render a particular service, and that that service is based on custom? I am sorry to say that nobody has explained this matter from the other side of the House. They are feeling shy about it and I think the reason is very simple, because there is no such thing as customary service to a public servant as such. Unless the Government come forward with a clear definition of the term "customary service" it is very difficult for us to accept a provision like this about which we do not know anything. With these words, I support the amendment.

The Honourable Mr. H. G. Haig: Complaint has been made that the term "customary service" is ambiguous. I submit that, as a matter of fact, customary services are well known. In the first place, I would reassure my Honourable friend, Mr. Mitra, that I do not include in them the giving of a *salaam*. I regard a service as something of material benefit and I cannot include in that an empty compliment. This is a problem really of village life. In the villages, as Honourable Members are aware, there are certain village servants who in return for it, may be land or remuneration of some other kind, are bound to perform certain essential services for the people of the village. Now, the particular feature of those services is that they really cannot be performed by anybody else. In the village, unless you get those regular village servants to perform this service, which is an essential service, you cannot get it performed at all. You cannot really live in the village. That is what we have in mind and it is perfectly well known what those services are. Certainly in the province with which I am acquainted, in every village, there is a record of rights in which these things are defined. There is no ambiguity about it.

Mr. Balchand Navarat: May I interrupt the Honourable Member. Is this clause restricted to such example as the Honourable Member gives?

The Honourable Mr. H. G. Haig: The clause refers to customary service and I am explaining what customary service means. It has been urged that even if these services are performed for the inhabitants of a village, it is not reasonable that they should be performed by anybody else. That is not a contention that I can accept. The question of payment is a different matter. It may well be that certain customary services are in fact paid for by touring officers. In the United Provinces, that certainly is the case. When an officer goes on tour, it is a custom that grass for the tents, pottery, and so on, are supplied, but they are paid for. Now, I think my Honourable friend, Sardar Sant Singh, lashed himself unnecessarily into a fury over this matter. After all, if certain village servants habitually perform certain duties, and that is in fact their main occupation in life, how does it become slavery if they perform those same duties for Government officers. I think my Honourable friend must have a very weak case if he depends on such patent exaggeration as to call that slavery. I think, Sir, I have said enough to establish the fact that this matter of customary services is in the villages a matter of great importance, and that we must protect our Government servants against the boycott which denies to them these essentials of life.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in sub-clause (1) of clause 4 of the Bill, the words 'or to render any customary service to such public servant or any member of his family' be omitted."

The motion was negatived.

Mr. S. C. Mitra: Sir, I move:

"That in sub-clause (1) of clause 4 of the Bill, the words 'or any member of his family' be omitted."

As we failed to carry the motion about customary services, I would now move a motion to restrict it to public servants only. In the definition of a public servant in this Bill, the scope has been very much widened. Not only the

public servants themselves, but every member of their family is also entitled to receive these various privileges that one can reasonably expect in hard cases for a public servant to be extended to him. I do not know how it will at all be possible for people to know who are the members of the family of a public servant. One can imagine the hardship to a public servant, supposing that there is so much influence of the Congress in the country that public servants cannot even get a piece of land to pitch their tents. But why should the same privilege be extended to every member of their family? I know that Congress is against social boycott.

The Honourable Mr. H. G. Haig: Since when?

Mr. S. C. Mitra: Mahatma Gandhi has repeatedly said that it is against the principle of non-violence to bring social pressure to bear upon anybody. So these are really imaginary cases. I find no justification for extending this privilege to every member of the family of a public servant. I think that it is going too far. Therefore, I propose this amendment.

Diwan Bahadur Harbilas Sarda (Ajmer-Merwara: General): This clause 4 of the Bill is really wonderful. The more I read this clause, the more I am wonderstruck at the extraordinary sweep of the imagination of the framers of this Bill. I am really thankful that God in His infinite mercy has spared us and arrested the wonderful flight of imagination of the framers of this Bill after it had travelled from public servant to the members of his family and stopped there and not added "and his acquaintances". If that had been done, there is absolutely no doubt that the circle would have been complete, and logically it would have become perfect and Government would have been able to pass it in this Assembly constituted as it is.

I doubt if Government fully realise the implications of what they have framed here. They have provided here:

"Whoever.....refuses to deal with, or to let on reasonable rent a house usually let for rent.....to such public servant or any member of his family, on the terms on which such things would be done in the ordinary course.....shall be punished, etc."

Now, what is a public servant? Is a *chaprassi* of a Government office or of a municipal body a public servant or not a public servant? I hope, the Honourable the Law Member will admit, that reading the *Explanation* to clause 3, where a public servant includes the servant of a local authority or of a railway administration or an employee of a public utility service, that such an employee is a public servant. Now, is there any rule which forbids the recruitment of all sorts of people for the public services? The brother of a public woman is employed as a public servant. I know of such a *chaprassi* in a certain office. Do the Government realise what is meant by adding the words "or the members of his family"? I am perfectly aware that the Government's intention is only to make some things done to harass a public servant in good faith. But what is the use of using such loose phraseology in an enactment which is liable to be interpreted and used in most objectionable ways? I will not pursue the subject further but I will only say that the framers of the Bill have not realised fully the meaning and significance of the words that they have used in this clause. Ordinarily, a public servant is a very estimable man, but he may have, as a member of his family, a profligate person. Now, a man who would not agree to let his house to that profligate person—he would be quite willing to

[Diwan Bahadur Harbilas Sarda.]

let that house to the public servant himself, who is an estimable person—comes within the purview of this clause. Now, Government have to some extent made themselves responsible for the public conduct of a public servant. The Government Servants' Conduct Rules lay down certain things. But have Government also made themselves responsible for the conduct of all the members of the family of a public servant in India? Therefore, I say, that the addition of the words "any member of his family" is not only superfluous, but mischievous.

Mr. K. P. Thampan: I have also given notice of a similar amendment. Sir, I only want that the Honourable the Home Member should realise that families consisting of between 50 to 200 members are not rare at any rate in my part of the province of Madras and to what extent this privilege is capable of being abused. I can quote several names of families with more than 300 members easily. I will illustrate my point. Well, some of the Malayalis employed in the Secretariat here have got large number of relations residing in their families in Malabar. Now, suppose, one of the members of a clerk's family does not get certain customary services done. Even if these are refused for very good reasons, this particular clerk can complain that it was done with the intention of harassing him in his duties here. The idea is not far fetched. Sir, it can easily be seen that the implications, in view of the fact that a Hindu's family often consists of large numbers of people, are serious, and I would earnestly appeal to the Honourable Member in charge of the Bill to consider all these aspects and accept the amendment.

Mr. Gaya Prasad Singh: Sir, I should like to understand the real scope and significance of the whole clause as it is drafted. I understand that the expression "a public servant or any member of his family" is not meant to apply only to customary services, but it governs the whole of this clause.

"Whoever, with intent * * * refuses to deal with, or to let on reasonable rent a house usually let for hire."

Now, the phrase "a house usually let for hire" for instance governs a public servant as well as any member of his family. I should like to understand this point. If this clause is intended to stand like this, I should like to give just one or two illustrations to find out how in actual practice the clause will work. For instance, a public servant is employed in Delhi. It may of course be conceded that he should be accommodated properly in order to be in a position to discharge his duties efficiently. Now, suppose he has got a brother elsewhere, say in Simla, who is not a public servant, and another member of his family residing in some other place. Will this clause operate in favour of those relations of his family who are not living with him, but are residing elsewhere? This public servant, for instance, might complain that he is being harassed in the discharge of his duties, because his brother or some other relation elsewhere does not find suitable accommodation for himself, or finds that customary services are not being rendered to those members of his family who are elsewhere. If my assumption is correct, then the scope of the clause becomes a very dangerous one, and I must warn Honourable Members that they must think twice before they give their sanction to a clause of such

dangerous possibilities. If, on the other hand, it is intended to restrict the scope of this clause only to the cases of members of families of public servants who are residing with the latter in a particular place, that intention ought to be made clear by the addition of suitable words. Sir, with these few words I should like my Honourable friend to explain the exact scope of this clause.

The Honourable Mr. H. G. Haig: Sir, before I come to the point raised by the Honourable Member who has just sat down, I should like to deal with the points mentioned by my Honourable friend, Mr. Mitra. He assured us that it was not the policy of the Congress to encourage social boycott, and I ventured to interject the question, "Since when?" The reason why I made that interjection was that I have here a published Resolution of the All-India Congress Working Committee held at Allahabad on the 27th June, 1980, at the height of the first civil disobedience movement. Resolution 4 reads:

"The Committee calls upon the people to organise and enforce a strict social boycott of all Government officials."

Well, Sir, I think that establishes my position. That is the evil against which we are required to guard. Now, Sir, it is well known that in practising this boycott it is common, if possible, to strike a Government servant not directly, but through his family. And I would ask the House to remember that there is this peculiar feature about the life of Government servants that very often, owing to the conditions of their service, they are inevitably separated from their families. The families are left behind perhaps in the village while they are posted elsewhere. In cases like that, it seems to be most essential that the wife and the children should be protected from being given notice to leave the house or from being denied supplies or the customary services that we have heard about if the object of that denial is to influence, as it will influence very powerfully, the Government servant who is serving elsewhere. I think that provides a very full justification for including the members of the family. With regard to the working of the clause, I must at the risk of being tedious, once more emphasise that there can be no offence unless the intention is proved. Now, that, I think, affords a sufficient answer to the suggestion of my Honourable friend, Mr. Thampan. He said that there are very large families in this country which, I understand, extend to about 500 and that it might well be that too great a protection was being extended to these 500 persons on the basis of the one Government servant. I would suggest that when you have a family of 500 persons, the relations of all of them are not very close; consequently it would be exceedingly difficult to prove that because a house is not let to the five-hundredth relation, that refusal is in any way connected with the public duties of the Government servant.

Sir, I oppose the amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in sub-clause (2) of clause 4 of the Bill, the words 'or any member of his family' be omitted."

The motion was negatived.

Mr. S. C. Sen: Sir, I move:

"That in sub-clause (1) of clause 4 of the Bill, after the words 'or any member of his family' the words 'living with him' be inserted."

Notwithstanding the speech made by the Honourable the Home Member, I persist in moving this amendment. The illustration given by the Home Member is that a public servant may have to go from place to place and, therefore, the members of his family should be protected exactly in the same manner as the public servant himself would be. Now, Sir, that explanation does not take into consideration the fact that while a public servant may not have any permanent place of residence, his family would have been living permanently and, consequently, they would not in that place ordinarily require the same services as are to be rendered to the public servant under this clause. Such services would be required by the public servant himself who goes to the outside stations where he has no fixed place of residence. In these circumstances, if the family of a public servant who may live scattered all over the country, and they are entitled to the benefit of the services provided for in this clause, life would become intolerable. Therefore, I move my amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Amendment moved:

"That in sub-clause (1) of clause 4 of the Bill, after the words 'or any member of his family' the words 'living with him' be inserted."

Mr. Gaya Prasad Singh: I beg to support this amendment. It was with the precise object of finding out the scope of this sub-clause that I gave an illustration with regard to the former amendment, but from the reply of the Honourable the Home Member it appears that the fear which I then entertained has come true. In other words, all the members of the family of a public servant, wherever they reside, are sought to be protected under the provisions of this sub-clause. I will give you an example. A public servant is stationed in Delhi where he must secure his accommodation and all the amenities of life in order to ensure an effective discharge of his duties. He has got a member of his family, a brother, not an official, working in Simla; another working in Calcutta, and so on. Is it the intention of Government to provide all these facilities for every member of his family in whatever different places they reside? My Honourable friend has reiterated, times without number, that the intention to harass a public servant must be proved. Now, Sir, this expression, in the first place, is very indefinite, and it will be very difficult in political cases for an ordinary Magistrate to acquit an accused person who is charged with the offence under this clause. Sir, so long as the system of judicial and executive functions is combined in the same officer, it is very difficult in political cases for an average officer to weigh with niceties the complexities of the case, or to be altogether free from political bias; and, under these circumstances, it is very doubtful whether proper justice would be done in a case of that nature. Therefore, it is only proper that the words, which my friend who has just moved the amendment to be inserted be inserted in the place where he wants them. It is paying too high a compliment to the Indian National Congress if it is seriously contended that all over the country it will have such a network of organisations that it will be difficult for the members of the families of public officers to live

peacefully, because they will be boycotted effectively and, therefore, these drastic provisions of the law would be necessary. The claim of the Government is that they had almost succeeded in scotching the activities of the National Congress. At one time they claim that their Ordinances, which had been at work, succeeded in achieving their object to a great extent. But when it comes to the provisions of the Bill, some of which are very comprehensive and drastic, which they are going to enact into law, one is bound to come to the conclusion that they are very apprehensive of the immense power of the Indian National Congress. I would, therefore, like to curb the scope of mischief of this clause by limiting it to the case of those members of the family of a public servant who live with him.

Mr. Amar Nath Dutt: Sir, after hearing the Honourable the Home Member about the scope of this clause as elicited by the enquiry of my Honourable friend, Mr. Gaya Prasad Singh, I find that instead of enacting all these clauses and instead of our attempting to have certain words changed here and there, it seems to me the intention of the Government is to have very comprehensive power to harass anybody they like. As my Honourable friend, Mr. Thampan, observed, a family may be found in his part of the country consisting of 500 members. But let us confine the meaning of the word "family" to eight or ten persons. Is it not possible for the Honourable the Home Member to have some provision in the clause, as suggested by the Honourable the Mover of the amendment, so that the word "family" may be defined to include persons within certain limits. We know people will have to get judicial interpretation of these words, and who knows what interpretation they will put to the word "family"? In fact, I was thinking why Government should not bring forward a Bill to the effect that whatever a Government servant wants to do he can do, and whatever may be his orders, every one must obey, and no action will lie against him and people disobeying his orders shall be liable to such punishment as the Government servant desires. Have a simple Bill like this and it would be quite sufficient, and it would not have been necessary for us to sit from eleven o'clock till five every day and discussing clause by clause without any chance of carrying any of our amendments and without being able to convince the other side about the necessity of the amendments. Even if the Honourable the Home Member does not accede to the reasonableness of a very moderate amendment moved by a very moderate politician—belonging to the same school of moderate politics as my Honourable friend, the Law Member—if the Honourable Member does not see his way to accept an amendment like this, I think it were better that we were not here. Last by our going out, it should be said that we are staging a walk-out, I do not suggest that. Probably the Government too do not like that. That being so, I would ask the Government to have a simple Bill as I suggest, namely, that nothing is an offence for a Government servant to do, and everybody should do whatever a Government servant orders and, on failure to do so, the individual defaulting shall be punished with death or transportation for life, or imprisonment, or fine, or both. Such a simple Bill containing a single provision like the one suggested would be sufficient. If the Government want really to listen to our reasonable requests, then they should accept our reasonable amendments, as the one put forward by my Honourable friend, Mr. Sen. That being so, I want the Government to let us know once for all whether they want to hear our views. There may

[Mr. Amar Nath Dutt.]

be difference of views on certain matters, it may be that the non-official Members on this side of the House want certain amendments which the Government consider unreasonable, but to oppose every amendment with the help of that awful book which my Honourable friend, the Law Member, often cites, I am tempted to eat, as I would do, the fish of that name, as suggested by my Honourable friend, Mr. Ranga Iyer, but, surely, in this long list of 195 amendments, there must be some which might be acceptable and if the Government are not willing to accept even moderate and reasonable amendments, let them say: "You had better all leave the House; we will pass the Bill as we like".

The Honourable Mr. H. G. Haig: I am afraid that, in spite of the appeal from my Honourable friend, Mr. Amar Nath Dutt, I cannot agree with him that this is a reasonable amendment, nor am I prepared to surrender my judgment even though it is represented that this amendment is put forward by an Honourable Member of exceedingly reasonable and moderate views. I am very well acquainted with the views and with the moderate and reasonable arguments of Mr. Sen. I have had the pleasure of sitting with him in the Select Committee for a fortnight. We discussed these points very thoroughly and I think he would be the first to admit that we did examine all the suggestions put before us very carefully and, that, in very many cases whenever we felt it was possible, we did meet him by accepting those suggestions. But there were other cases in which we could not meet him and I would ask the House to remember when these 195 amendments are being discussed, that these are not amendments on the original Bill, but they are amendments to a Bill which has already been very extensively amended as a result of the most careful examination. So much for the general point.

Now, Sir, I have already dealt, in my reply to the previous amendment with the point at issue in this amendment and have explained, I hope clearly, why it is not possible for Government to agree to the omission of these words. It is, I think, a peculiarly cowardly and mean form of attack on Government servants, this system of boycotting their families, and we could certainly do nothing which would allow that kind of procedure to continue. So far as concerns the point, that you might have some remote relative living in some remote part of the country who wanted to obtain a house or something of that sort, I would suggest that the less near the relative, the less possibility is there of the Court holding that an act done to him has any relation to the public duties of the Government servant. In fact, it appeared to me that my Honourable friend, Mr. Gaya Prasad Singh, practically admitted that there is not much wrong with the drafting of this clause when he had to fall back upon the argument that of course Courts are unreliable. Sir, I oppose the amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in sub-clause (1) of clause 4 of the Bill, after the words 'or any member of his family' the words 'living with him' be inserted."

The motion was negatived.

Mr. S. C. Mitra: Sir, I move:

"That in sub-clause (1) of clause 4 of the Bill, the words 'or withholds from such person or his family such medical services as he would ordinarily render' be omitted."

Sir, I should like to make it perfectly clear that it is not my intention to deprive public servants, nay, anybody of medical aid when they are in need of the same. My purpose in moving this amendment is that it is useless to have a clause like this and I want that there should be no invidious distinction about medical profession alone. I think my Honourable friend, Dr. Dalal, will support me when I say that it is the moral code of the medical profession not to refuse any patient a visit when there is any urgent need for it. It is professional etiquette for any medical man not to refuse a call and I do not think even the Congress ever dreamt of going so far as to suggest that public servants or anybody else should be deprived of medical aid. I remember Sir Muhammad Yakub's heart was bleeding when he thought of the plight of public servants in villages not getting any medical aid. But he should not forget the public at large in India who live in villages. How many hospitals, dispensaries, doctors and midwives are they having? Almost the whole of India, except a few towns and sub-divisions, is bereft of all medical aid. He should not have forgotten this fact, when he was making that pathetic appeal. It seems as if the duty of this Government is only to enact coercive laws and to look after their public servants. The other bigger questions do not matter. That is one reason why I say that this is an unnecessary provision. Why should you make a distinction and cast an indirect slur on the medical profession when there are no instances anywhere in India that medical aid when available was denied to any man, whether a public servant or otherwise.

Sir, I move.

Mr. Muhammad Yamin Khan (Agra Division: Muhammadan Rural):

Sir, this point was argued in the Select Committee. The original intention was to put "professional services" which would include services rendered by two classes of people, lawyers and medical men. The mention of the legal profession was thought unnecessary as no Government servant would like to have advice from a lawyer who was unwilling to give it. So there remained the question of medical service. The point that Mr. Mitra put was considered when this clause was amended in its present form and it was argued that no medical man would ever refuse his services to any one, whether a public servant or not. But, to our great regret, we found several instances where it did happen and that was responsible for the insertion of this clause. It was brought to our notice that the services of midwives have been in some cases refused to wives of public servants who were in confinement, in places where no other service was available. So the Select Committee, when this was brought to their notice, had no other option but to insert this provision, and I think my Honourable friend will be well-advised if he withdraws this motion.

Sardar Sant Singh: Sir, the scene is shifting. From customary service we are now coming to technical service. You can take a horse to the water, but you cannot make him drink: and I ask, in all seriousness, what legal pressure will compel a scientific man to use his scientific knowledge if he is not willing to use it for that purpose? The services

[Sardar Sant Singh.]

ordinarily rendered by individuals may be forced by threat or any other means. But if you take an unwilling medical man to look after a patient, will he be cool enough to count his pulse or to see the beatings of the heart or do anything else which would help him to diagnose the disease? Simply because a particular midwife refused to attend a particular case in a particular village, the Government want to enact penal provisions for the whole of India. I am simply surprised at the imagination which is running wild in this Bill and I will certainly say that by these provisions you will not be able to bring round the people. It is by sympathy, co-operation, confidence and trust alone that Governments are run. I submit, therefore, that the provision is mischievous and unnecessary.

Mr. B. V. Jadhav: Sir, I rise to support this amendment. My Honourable friend, Mr. Yamin Khan, has opposed this amendment on the ground that in one solitary case a midwife refused to attend the wife of a Government servant. But I have great doubts whether the services of a midwife can be called medical service. In the villages, there are the *dhais* who attend upon women when they are in the family way, but it is well known that they have not got any knowledge of nursing or of midwifery and many a time their attendance is a nuisance and is more harmful than beneficial. Sardar Sant Singh has explained to us that it will be not only useless, but even dangerous if unwilling people are forced to render medical service; and I have also to say the same thing that this provision will be more harmful to public servants whom Government want to protect than helpful or beneficial to them. As a matter of fact, most of these public servants, who want protection or to whom protection is desired to be given by Government, do not require that protection at all. And no medical man of any importance has ever refused medical assistance; and if services had been refused by village *dhais*, then I think instead of the words "medical service", the words "*dhais* service" should have been used here. Why traduce the whole class of medical men who have been all right in the conduct of their profession and who have been very useful to all persons in need of their help whether they be Government servants or not? I, therefore, support this amendment.

Mr. Amar Nath Dutt: Sir, the very reasons which my friend, Mr. Yamin Khan, assigns for not compelling professional men like lawyers to accept briefs from men who are to be boycotted, also apply in the case of medical men. He says that nobody would trust a brief to a lawyer who will not wholeheartedly work. The same case may be with a medical man. In a case of fracture, a medical man is called and he gives quinine, to prevent fever or something of that sort. Will you accept such services? I think the retention of these words in the clause will not redound to the credit of the Honourable Member's intelligence, and does not bespeak of their wisdom when they want to force such unwilling medical assistance upon Government servants.

As regards the case of *dhais*, my experience is that these midwives are generally Government servants themselves and it is only outside citizens who do not get the services of these midwives when they want them. It often happens in mufassil towns, and any one with experience of mufassil

towns will bear me out that those officers who sit smilingly over there and for whose protection the heart of the Home Member bleeds, have the first claim on their services and that, as a matter of fact, it is the outside people who need protection rather than the class of people for whom this Bill seeks to provide unwilling medical aid. Such attempts will be rather injurious, and it is to their interest that this amendment should be accepted.

My friend, Mr. Moore, is not here but I think he gave out that he would not have himself shaved by a man whom he suspected to be a Congressman. I do not know whether amongst barbers there are any Congressmen. Of course I have had no connection with the Congress for some time past although I am the oldest Congressman in the House and my family has been identified with the Congress movement almost from its very inception, namely, from the year 1886, from the time of my grandfather, but since 1928, I have not attended any Congress nor have I had anything to do with it and I am not in sympathy with their present day programme; but, at the same time, I think we cannot deny them protection, simply because in the field of politics they think otherwise than we ourselves. That being so, the medical men are also entitled to protection, and, if they refuse to serve anybody, I think we should not come down upon them with any punishment. Much has been said about boycotting, a word, which came into vogue in the early eighties of the past century. Be that as it may, I beg to submit that social boycott and other things, as has been said, are things which ought to be left to individuals alone. It may be that one individual whom you may consider very estimable, I may consider as unworthy of association. My friend, Mr. Sen, would like to sit with me while the Home Member would like to shun my company. Should the Honourable the Home Member be compelled to associate with me? The citizens have a right to choose their associates and you cannot compel people to associate with people with whom they do not like to associate. If you compel Raja Bahadur Krishnamachariar to dine with the Honourable gentleman who sits by his side, viz., Sir Joseph Bore or Sir Brojendra Mitter, he will certainly resent it as an interference with his religious tenets. That being so, I submit, that in your own interests you ought not to have these words in the clause.

The Honourable Mr. H. G. Haig: Sir, I feel that this is a necessary provision. After all, the object of this clause is to secure, as far as may be, that Government servants are not in pursuance of certain political activities deprived of what we regard as the essential services of life; and, among those, surely we may include medical treatment in sickness. It has been said that it is no use compelling a doctor to go and attend a patient when he is unwilling to do so. But there are two points I wish to make about that. In the first place, we are dealing with a movement which exercises its influence to a large extent by intimidation. It may very often not be the case that the *dhai*, or whoever it may be, is herself unwilling to go, but she is afraid of the Congress. In these cases we provide another form of fear which may prevail over the fear of the Congress. In the second place, I would suggest that when a medical man is in the presence of disease or suffering, the feelings of common humanity will prevail and he will not in fact then withhold his services. Sir, I oppose the motion.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in sub-clause (1) of clause 4 of the Bill, the words 'or withholds from such person or his family such medical services as he would ordinarily render' be omitted."

The motion was negatived.

The Honourable Sir Brojendra Mitter: Sir, I beg to move:

"That in sub-clause (1) of clause 4 of the Bill, for the word 'three' the word 'six' be substituted."

I need not take the time of the House with a speech. We consider that three months is much too short and it ought to be six.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Amendment moved:

"That in sub-clause (1) of clause 4 of the Bill, for the word 'three' the word 'six' be substituted."

Mr. S. C. Mitra: Sir, I oppose this motion. It seems that, now that Government are convinced of their voting strength, they are trying to enhance the period of imprisonment in some of these clauses. The Select Committee, in their wisdom, I think with the votes of people who are persistently against the imposition of heavy sentences, accepted three months, and, therefore, there is no reason why there should be such a heavy sentence as six months as suggested by Government for this almost newly created technical offence. Sir, I oppose this amendment.

Sir Muhammad Yakub: Sir, I am sorry I am unable to see eye to eye with the Honourable the Law Member on this question. (Applause from the Nationalist Benches.) In fixing the period of sentence, for an offence, latitude is given to presiding officers to award punishment according to the circumstances of the case. But the clause under discussion is of a quite different nature. In this clause we have to deal with offences committed on a public servant, and, therefore, an element of personal interest comes in this offence, and naturally the presiding officer, being a human being, his sympathies will always go to the complainant in such cases and he will always award the maximum sentence. Therefore, it is not right that the presiding officer should be given the option to give a deterrent sentence in these cases. After all, it is a deterrent measure, and it has been admitted by the Honourable the Home Member himself that it is difficult to draw up a clause which may be very precise and exact in language. I, therefore, submit that it is not right for the Government to insist that such harsh and deterrent sentence should be given in such cases. For these reasons, I oppose the amendment.

Mr. S. G. Jog (Berar Representative): Sir, it is really a very rare phenomenon that I am rising to support my friend, Sir Muhammad Yakub. I hope occasions like this will arise more often and it will cease to be a rare phenomenon. Sir, when this clause came before the Select Committee, we, after a long discussion, came to the conclusion that the

period of six months which was in the original Bill should be reduced to three months; and, after a long discussion and looking to the petty nature of the offence and other circumstances, we decided that three months should be quite sufficient to meet all the cases. Probably having seen the weakness of this side, the Honourable the Law Member has made himself bold to come forward with this amendment in order to gain what he lost in the Select Committee. Sir, I strongly oppose this motion not merely on its merits, but I consider it as an insult to the Members of the Select Committee. After a long discussion on the general principle, we agreed to the period of three months imprisonment, and I for one would discourage any attempt that is now made to get over what we succeeded in achieving in the Select Committee. I entirely oppose the motion.

Mr. Nabakumar Sing Dudhoria (Calcutta Suburbs: Non-Muhammadan Urban): Sir, I oppose the amendment which has been proposed by the Honourable the Law Member. While I own that the purpose of punishment is correction and should be deterrent in its effect, I would also contend, at the same time, that it should not be vindictive in any way. But to extend the term of imprisonment, from three months to six, would in fact make it so. If three months will not be sufficiently deterrent and corrective, six months would hardly improve the result. A Legislature should not be justified in bringing in any measure which can be construed as vindictive on any interpretation, especially in the matter of a legislation of this character. We should be satisfied with three months imprisonment and refuse to admit six months in its place. With these words, I oppose the amendment.

Pandit Satyendra Nath Sen (Presidency Division: Non-Muhammadan Rural): Sir, I am really surprised that the Honourable the Law Member or I might perhaps mention the name of the Honourable the Home Member . . .

Sir Muhammad Yakub: The Honourable the Law Member is going to withdraw his amendment.

Pandit Satyendra Nath Sen: Is he really going to withdraw it?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): I understand that Government do not wish to press this amendment. (Applause from the Nationalist Benches.)

The Honourable Mr. H. G. Halg: Sir, I should like to say one word about the general position of Government in reply to what was said by my friend, Mr. Jog. As far as I understood him, he suggested that while it was open to him and his side to move 195 amendments on the Bill, as reported by the Select Committee, it was a scandalous thing for the Government to move even one. That is a position that I certainly cannot accept. So far as we are concerned, we do consider that six months is a reasonable period of imprisonment for this offence, but we do not wish to press this against the views of other Honourable Members, and, therefore, we are prepared to withdraw this amendment.

LEGISLATIVE ASSEMBLY. [24TH NOVEMBER 1932.]

Mr. President (The Honourable Sir Ibrahim Rahimtoola): I take it that the Honourable the Law Member wishes to ask the leave of the House to withdraw the amendment.

The Honourable Sir Brojendra Mitter: Yes, Sir; I ask the leave of the House to withdraw the amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Is it the pleasure of the House to give leave to the Honourable Member to withdraw the amendment?

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

Mr. S. C. Mitra: Thanks to Sir Muhammad Yakub.

The Assembly then adjourned till Eleven of the Clock on Monday, the 28th November, 1932.

2589-321 2610-321 2611-321

LEGISLATIVE ASSEMBLY.

Tuesday, 29th November, 1932.

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

QUESTIONS AND ANSWERS.

POLICY RE GRANT OF PENSIONS TO THE HEIRS OF SEPOYS KILLED IN WAR AND OF INDIAN SEPOYS DISABLED IN THE GREAT WAR.

1498. *Pandit Satyendra Nath Sen (on behalf of Mr. S. G. Jog): (a) Will Government please state if there is a change in their general policy in respect of the grant of pensions to (i) heirs of sepoy killed in or died of war diseases, and (ii) Indian sepoy disabled in the Great War?

(b) If the reply to part (a) above be in the negative, will Government please state if they have issued an Army Instruction lately in 1931, according to which the Controller of Military Pensions is to grant only three years arrears of family pensions and in no case more than five years' arrears in all claims in which pensions had not been granted for some reason or other?

(c) Is it also a fact that the aforesaid Army Instruction, mentioned in part (b) above, is being very strictly observed even in cases of children allowance? Is it a fact that such claims should have been initiated on the death of the sepoy by the Officer Commanding? Is it a fact that according to para. 44 of Financial Regulations for the Army in India, Part I, the Officer Commanding is considered to be the claimant on behalf of Indian military pensioners, especially of illiterate widows and of minor heirs? Are Government aware that claims of the latter according to civil law do not go time-barred till after three years of their attaining majority?

(d) Will Government please state if there is any limitation fixed for the submission of claims to family pensions and children allowance? Is there any rule or law to show that such claims preferred after a certain time are time-barred?

(e) Will Government please also state whether Army Instruction (India) 87 of 1931, restricting arrears of family pensions up to a limit of three years is to come into operation from the date of its issue or whether it will have also retrospective effect in the sense that it will be applicable to persons who became entitled to family pension before the issue of this Instruction?

(f) Is it also a fact that certain Indian ranks, who sustained disability on field and foreign service, were sent back to India for treatment and died in Indian military hospitals as the result of that disability, but their heirs have been considered ineligible for family pensions and medical boards have certified their deaths as not attributable to field or foreign service, nor to drinks and drugs or self-aggrandisement?

(g) Is it not a fact that in case of death occurring on field service the presumption warranted by the appendix to Army Instruction (India), 288 of 1921

(approved by the Secretary of State for India) is that such death must be presumed as attributable to field service?

(h) Will Government please state if there are different rules or regulations in respect of the attributability of such deaths as mentioned in part (f) above? Is there anything to show that such cases are excluded from the presumption referred to in part (g) above?

(i) Does the term "military service" include field and foreign service also? If not, why do the Indian Medical Boards use the expression "Not attributable to field, foreign or ordinary military service" in their findings?

Mr. G. R. F. Tottenham: (a) No, Sir.

(b) Yes, but the Controller only possesses these powers when the claimant has been unable to give a satisfactory explanation of the delay in submitting the claim.

(c) The facts are generally as stated, but the Indian Limitation Act does not apply to the entertainment of pensionary claims by Government, and, as mentioned in the statement laid on the table on the 15th September in reply to Sardar Sant Singh's question No. 299, claimants, as well as Commanding Officers, are responsible for the prompt initiation of their claims.

(d) No.

(e) Claims initiated on and after the date of the Instruction, and claims outstanding on that date, are disposed of in the manner prescribed by the Instruction.

(f) Government are not aware of any such cases. I may add, Sir, that Government have never heard of anyone actually dying from self-aggrandisement.

(g) Yes, but the Army Instruction was reconstructed, also with the approval of the Secretary of State, in Army Instruction (India) No. 1058 of 1922 in which the presumption referred to was omitted.

(h) Does not arise in view of the replies to (f) and (g).

(i) The answer to the first part of the question is in the affirmative. The expression referred to by the Honourable Member is not now used by Medical Boards.

GOVERNING BODY OF THE LADY HARDINGE MEDICAL COLLEGE, DELHI.

1499. ***Pandit Satyendra Nath Sen** (on behalf of Mr. S. G. Jog): (a) Is it not a fact that the constitution of the Lady Hardinge Medical College, Delhi, provides that there should be on the Governing Body one prominent gentleman of Delhi and one prominent businessman of Delhi?

(b) Will Government please state who are the present nominees and since how long they are there?

Mr. G. S. Bajpai: (a) Yes.

(b) Khan Bahadur Maulvi Abdur Rahman, Advocate, Delhi.
Mr. G. R. Seton, Agent, Imperial Bank, Delhi.

STRIKE IN THE LADY HARDINGE MEDICAL COLLEGE, DELHI.

1500. ***Dr. Ziauddin Ahmad** (on behalf of Mr. S. G. Jog): Is it a fact that there was a strike recently in the Lady Hardinge College, and will Government state as to what the grievances were and whether they have been considered and settled? If so, how?

Mr. G. S. Bajpai: There was a strike. The students asked:

- (1) that the main electric switch to the Hostels should not be put off at all;
- (2) that the 4th and 5th year Medical students be allowed to keep on the light every night till 11 P.M.;
- (3) that students be allowed to visit sick students in Hospital any time between 5 P.M. and 7 P.M.; and
- (4) that the Stewards should visit their rooms on a certain fixed day once a month only.

These requests have been substantially granted.

HINDU AND MUSLIM CLERKS IN THE LADY HARDINGE MEDICAL COLLEGE, DELHI.

1501. ***Dr. Ziauddin Ahmad** (on behalf of Mr. S. G. Jog): Will Government state how many Hindu and how many Muhammadan clerks are there in the staff of the Lady Hardinge Medical College? What are their names, qualifications and their pay?

Mr. G. S. Bajpai: There are two Hindu and two Muhammadan clerks on the staff of the Lady Hardinge Medical College. A statement showing their names, qualifications and pay is laid on the table.

Statement.

Name and designation.	Qualifications.	Pay.
		Rs.
1. Mr. Shambu Nath (Hindu), Accountant.	M. A. (Commerce), G. D. A.	250 p. m.
2. Mr. K. P. Bhatnagar (Hindu), Assistant Accounts Clerk.	Bachelor of Commerce, G. D. A.	75—5—100 p. m.
3. Mr. G. S. S. Allam (Mohammedan), Stenographer to the Principal.	He served as a Head Clerk with the rank of Subedar during the War in South Persia and later in the 3rd Afghan War in 1919 and afterwards on the North-West Frontier.	150 p. m.
4. Mr. Masha Alla Khan (Mohammedan).	School Leaving Certificate, with 3 years' experience of office work.	75—5—100 p. m.

APPLICATIONS FOR VACANCIES IN THE TRAINING RESERVE OF THE WOMEN'S MEDICAL SERVICE FOR INDIA.

1502. ***Mr. S. G. Jog:** (a) Is it a fact that the Central Dufferin's Fund Office had invited applications in August, 1932, for vacancies in the Training Reserve of the Women's Medical Service for India? If so, how many applications in all have been received, and how many lady doctor graduates have been admitted to the Training Reserve by the Executive Committee?

(b) Who are the members of the Executive Committee of the Women's Medical Service for India? How many members of the Executive Committee were present at the Interview Board, and how are selections made of the Indian lady graduate doctors? Is there any Indian doctor on the Executive Committee or on the Interview Board? If not, why not?

(c) Will Government please lay on the table a complete list of the lady doctors who have been deputed to the United Kingdom for training from year to year and for obtaining British minimum medical qualifications; and what amounts have been contributed to their training in the United Kingdom? What are the names of other lady doctors (other than Indians) who have been directly recruited to the Women's Medical Service for India in senior grades and higher status?

Mr. G. S. Bajpai: (a) Yes. 24 applications were received and four graduates were admitted to the Training Reserve.

(b) A statement showing the names of the members of the Executive Committee of the Women's Medical Service for India and the names of the members of the Selection Committee is laid on the table. The Selection Committee consists of the medical members of the Executive Committee. The recent selections to the training reserve were made after circulation of papers to the members of the Selection Committee. Applications are circulated to members of the Selection Committee at the time when vacancies occur. Candidates are selected according to merit. The Selection Committee takes into account academic qualifications and experience possessed by a candidate, for example, post-graduate experience as a resident medical officer.

There is at present no doctor of Indian race on the Executive Committee or the Selection Committee. The Honourable Member's suggestion will be brought to the notice of the authorities concerned.

(c) A statement containing the information asked for by the Honourable Member for the last five years is laid on the table.

Statement showing the names of the members of the Executive Committee of the Women's Medical Service for India and the names of the Members of the Selection Committee.

(1) List of members of the Executive Committee of the Women's Medical Service for India.

Her Excellency the Countess of Willingdon, C.I., G.B.E., *President*.
The Honourable Sir Henry Moncrieff-Smith, Kt., C.I.E., I.C.S., *Chairman*.
The Hon'ble Major General J. W. D. Megaw, C.I.E., K.H.P., I.M.S., *Director General, Indian Medical Service, Vice-Chairman*.
Sir Ernest Burdon, Kt., C.S.I., C.I.E., I.C.S., *Honorary Treasurer*.
Lady Bhore, M.B.E.
Major F. M. Collins, R.A.M.C., *Honorary Joint Secretary*.
Dr. M. V. Webb, Chief Medical Officer, Women's Medical Service, *Secretary*.

(2) List of members of the Selection Committee.

The Director General, Indian Medical Service—The Honourable Major General J. W. D. Megaw, C.I.E., K.H.P., I.M.S.,
Lady Bhore, M.B.E.
Major F. M. Collins, R.A.M.C.
The Chief Medical Officer of the Women's Medical Service, Dr. M. V. Webb.

List of lady doctors who have been deputed to the United Kingdom for post-graduate study during the period 1928 to 1932.

Year in which deputed to United Kingdom for post-graduate study.	Name.	Diploma or Course of study for which deputed.	Nationality.	Amount contributed for training.
				Rs.
1928	Dr. Bali	M.R.C.S., L.R.C.P. (London).	Indian	3,778
1928	Dr. Wischam	Do.	Anglo-Burmese	3,700
1929	Dr. Lakshmi Devi	Do.	Indian	4,406
1930	Dr. Brooks	Do.	Anglo-Indian	4,172
1930	Dr. Matthew	Do.	Indian	4,064
1930	Dr. Rekhi	Diploma in Radiology.	Indian	Nil (Dr. Rekhi was trained at the expense of the Rockefeller Foundation).
1931	Dr. d'Monte	M.R.C.S., L.R.C.P.	Indian	4,038
1931	Dr. Shrikande	Diploma in Bacteriology.	Indian	4,016
1931	Dr. Jiwan Lata	Special study in maternity and child welfare.	Indian	4,024
1932	Dr. Patil	Diploma in Bacteriology.	Indian	4,020
1932	Dr. Senjit	Diploma in Ophthalmology, also M. R. C. S., L. R. C. P.	Indian	4,016

List of lady doctors (other than Indians) who have been directly recruited to the Women's Medical Service for India during the period 1928 to 1932 (excluding those who are no longer in the Women's Medical Service).

Dr. L. Torrance, M.D., Ch.B. (Glasgow) . . . Recruited in India.
Dr. Proctor Sims, L.R.C.P., M.R.C.S. (Lond.) . . . Recruited in India.
Dr. Callender, M.A. (Cantab.), M.B., B.S. (Lond.), L.R.C.P., M.R.C.S. . . . Recruited from England for general work.
Dr. Orkney, M.B., Ch.B. (St. Andrews), D.H.P. (Manchester), Specialist . . . Recruited from England;
Dr. J. Thomson, L.R.C.P., M.R.C.S., M.B., B.S. (Lond.), M. D. (Lond.) . . . Admitted temporarily in India.
Dr. Herbert, M.B., B.S., M.R.C.S., L.R.C.P. (Lond.) . . . Admitted temporarily in India.

NUMBER AND NATIONALITY OF PROFESSORS OF THE LADY HARDINGE MEDICAL COLLEGE, DELHI.

1508. *Mr. S. G. Jog: How many Professors are there in the Lady Hardinge Medical College and of what nationality are they?

Mr. G. S. Bajpai: Nine—three Indians including an Anglo-Indian, and six Europeans.

FUNCTIONS OF CHIEF MEDICAL OFFICER, WOMEN'S MEDICAL SERVICE.

1504. *Mr. S. G. Jog: (a) Will Government state what are the functions of the Chief Medical Officer, Women's Medical Service?

(b) Will Government state whether she does any actual medical work? If not, why not?

Mr. G. S. Bajpai: (a) A statement of the duties of the Chief Medical Officer, Women's Medical Service is laid on the table.

(b) The Chief Medical Officer is primarily an administrative officer and like other administrative officers of medical departments is debarred from doing ordinary medical work. She has, however, been allowed to act as Honorary Consulting Surgeon to the Lady Reading Hospital, Simla, so as to enlarge the facilities available at this Hospital which is of great value to the female population of Simla and the neighbouring hills.

Statement.

The Chief Medical Officer is responsible, under the Council and the Executive Committee, for the recruitment, postings and discipline of the Women's Medical Service and its training reserve. She investigates and lays before the Executive Committee applications for grants-in-aid for the medical relief of women, the founding and improvement of women's hospitals, and the education of doctors, nurses and midwives. She visits the hospitals staffed by officers of the Women's Medical Service and also inspects such other Women's hospitals as are not directly under the control of Provincial Governments. She serves on the Committee of the Maternity and Child Welfare Bureau of the Indian Red Cross Society, the Executive Committee and the Governing Body of the Lady Hardinge Medical College, and the Committee of the Lady Reading Health School, Delhi. She is also Honorary Secretary of the Lady Reading Hospital, Simla.

ABOLITION OF THE BOMBAY-KARACHI SEA POST OFFICE.

1505. *Mr. Lalchand Navalrai: (a) Is it a fact that the Bombay-Karachi Sea Post Office has been abolished and that the work is now being done at the Karachi General Post Office?

(b) If so, when was this done and what is the amount of saving effected thereby?

Mr. T. Ryan: (a) Yes.

(b) In April, 1932. The saving is Rs. 841 a month.

OVERTIME ALLOWANCE TO THE KARACHI GENERAL POST OFFICE STAFF FOR DISPOSAL OF WORK IN CONNECTION WITH THE INWARD ENGLISH MAIL.

1506. *Mr. Lalchand Navalrai: (a) Is it a fact that no extra staff has been given to the Karachi General Post Office for the disposal of the work in connection with the Inward English Mail which was formerly done

by the Bombay-Karachi Sea Post Office and that the work is being done on payment of overtime allowance?

(b) If so, what are the rates of overtime allowance sanctioned for the work and how do they compare with the rates of overtime allowance granted to the employees at Bombay and Calcutta?

(c) If the overtime allowance has not been sanctioned yet, what is the cause of delay and what rates are proposed to be sanctioned and how do they compare with those paid to the employees at Bombay and Calcutta?

(d) If the rates paid at Bombay and Calcutta are higher, what are the reasons for the difference?

Mr. T. Ryan: (a) Yes. No additional staff was required as on account of the heavy fall in postal traffic during the last two years, the staff originally sanctioned for the larger offices like Karachi was found to be in excess of actual requirements. A small portion of the permanent staff of the Karachi head post office, which is required to perform extra hours of duty in connection with the inward foreign mails is given overtime pay.

(b) A statement giving the required information is laid on the table.

(c) Does not arise.

(d) Overtime allowances are based partly on the pay of the posts to which they are attached and partly on the nature and duration of the overtime duty performed. The time-scale of pay for the clerical cadre in Karachi is lower than similar scales at Bombay and Calcutta and the hours of overtime performed by the Karachi staff are less. Hence overtime pay is granted to the Karachi clerical staff at a lower rate than to the corresponding staff in Calcutta and Bombay.

Statement showing the rates of overtime pay sanctioned for the permanent staff at Karachi, Bombay and Calcutta, who are employed on overtime duty in connection with the disposal of inward foreign mails.

Designation of officials.	Rate at Karachi admissible for each mail.	Rate at Bombay and Calcutta admissible for each mail.	
		For duty between 6 A.M. and 11 P.M.	For duty at any other time.
	Rs.	Rs.	Rs.
Supervising Officer (Assistant Post-master).	5	12	14
Supervisor (Head Clerk)	3	6	7
Ordinary time-scale clerk	2	4	5
Sorting or Overseer Postman	1	3	3-8-0
Packer and other inferior servant	0-8-0	1	1-4-0

Mr. Lalchand Navalrai: Do they not do as much overtime work as in Bombay and Calcutta which entitles them to the same overtime allowance?

Mr. T. Ryan: They work overtime, but not generally to the same extent. As I have just stated, the time-scale of pay in Karachi is lower and the hours of overtime performed at Karachi are less.

RATES OF OVERTIME ALLOWANCES IN THE KARACHI GENERAL POST OFFICE.

1507. ***Mr. Lalchand Navalrai:** (a) Is it a fact that the rates of overtime allowance granted to the staff of the Karachi General Post Office are the same for night as well as day work, while at Bombay they are different? If so, why?

(b) Is it a fact that the staff at Karachi General Post Office have to put in six to eight hours of overtime duty during the Christmas season? If so, why are they not paid the same allowance as is paid to the staff at Bombay?

(c) Is it a fact that the Karachi Customs staff also have got different rates of allowance for night and day overtime work?

(d) Is it contemplated to revise the rates of overtime allowance granted to the staff of the Karachi General Post Office? If so, when? If not, why not?

Mr. T. Ryan: (a) Yes. The question of removing the anomaly referred to by the Honourable Member is under examination.

(b) As regards the first part, it may be that in times of great pressure such as the Christmas Season, overtime duty has to be performed by the Karachi General Post Office staff for such periods as mentioned by the Honourable Member. As regards the second part, the Honourable Member is referred to the reply just given to part (d) of his question No. 1506.

(c) Yes.

(d) Attention is invited to the reply to part (a). I may add that the Government of India do not consider that the case for a general enhancement of these overtime allowances at Karachi is sufficiently strong to justify such an enhancement in the present state of the departmental and general finances.

QUARTERS IN NEW DELHI FOR THE INFERIOR SERVANTS OF THE GOVERNMENT OF INDIA.

1508. ***Mr. Lalchand Navalrai:** (a) Is it a fact that the Government of India obtained the concurrence of the Standing Finance Committee on the 7th August, 1926, to a grant of Rs. 6,00,000 for the construction of quarters in New Delhi for the duftaries, record sorters and other inferior servants employed in the Government of India?

(b) Has the programme been fully completed?

(c) If so, how many of the inferior staff, particularly record sorters and duftaries, have been provided with residential accommodation, and what is their percentage to the total staff employed?

(d) Do Government propose to provide for the residential accommodation of the remaining staff of record sorters, duftaries and others?

(e) If not, why has the provision made not been utilised for the use of the inferior staff? Are Government aware that they find it impossible to rent private accommodation in New Delhi?

The Honourable Sir Frank Noyce: The information asked for by the Honourable Member is being collected and will be laid on the table of the House in due course.

HOUSE RENT ALLOWANCE OF THE INFERIOR STAFF OF THE GOVERNMENT OF INDIA.

1509. ***Mr. Lalchand Navalrai:** Is it a fact that the inferior staff of the Government of India get a monthly allowance for house rent at Re. 1 in Simla and Rs. 1-8-0 in Delhi while the rent fixed for peons' quarters by the Estate Office is Rs. 3 and that of a duftary Rs. 8? Why do not Government pay house rent allowance on the same scale to those of the inferior staff who have not been allotted quarters?

The Honourable Mr. H. G. Haig: Both at Simla and Delhi inferior servants in the Government of India and its attached offices are entitled to rent-free quarters or house-rent allowance in lieu thereof. Such of them as cannot be provided with free quarters make their own arrangements for accommodation and are given a house-rent allowance of Re. 1 per mensem at Simla and Rs. 1-8-0 per mensem at Delhi. The principle on which the amount of this allowance is fixed is that it should be such as to enable inferior servants to secure suitable private accommodation. This bears no relation to the theoretical standard rent of rent-free quarters which is based on the capital cost of buildings.

DUFTARIES' QUARTERS IN NEW DELHI.

1510. ***Mr. Lalchand Navalrai:** Is it a fact that the duftaries' quarters were built only for the duftaries employed in the Secretariat and the Attached Offices? If so, why are these quarters allotted to the staff of local offices when the requirements of the Secretariat and the Attached Offices are not met?

The Honourable Sir Frank Noyce: The duftaries' quarters were built for the duftaries in the employ of the Secretariats of the Government of India and in all attached or subordinate offices, including the Local Administration, who are compelled to reside on duty with the Government of India in New Delhi, and they are allotted accordingly.

ABSENCE OF ROADS NEAR THE PEONS' QUARTERS IN NEW DELHI.

1511. ***Mr. Lalchand Navalrai:** Is it a fact that big drains have been constructed all around peons' quarters and no roads have been constructed for taking tongas and other vehicles to the peons' quarters? Are Government aware that this causes considerable inconvenience? If so, what do Government propose to do in the matter?

Mr. G. S. Bajpai: My information is, Sir, that none of these blocks of quarters, of which there are several, is adorned with an obstructive periphery of drains, and that access is possible to each block from a road within easy reach.

Mr. Lalchand Navalrai: Can carts go there? Are there any roads for them?

Mr. G. S. Bajpai: Yes; there are roads alongside of them.

GOVERNMENT QUARTERS IN NEW DELHI FOR THE MEMBERS OF THE CENTRAL LEGISLATURE.

1512. *Mr. Nabakumar Sing Dudhoria: Will Government be pleased to state:

- (a) whether it is not a fact that the Government quarters intended for the occupation of members of the Central Legislature afford different kinds of equipments and conveniences in different types;
- (b) whether it is not a fact that though orthodox officers' bungalows on Firoz Shah Road and Electric and Canning Lanes contain more accommodation as regards rooms and lavatories than Queensway and Windsor Place quarters, yet the rent charged therefor is less than those for the latter;
- (c) whether it is not a fact that Windsor Place quarters contain only one privy in such quarters although intended for a member and his family;
- (d) whether it is not a fact that the room in which the privy has been constructed in the Windsor Place quarters is big enough to be made into a decent bed-room;
- (e) whether Government have considered that such a big room could be so divided up as to afford space for the construction of two privies, one having its entrance from the attached bath-room and the other from outside the inner courtyard;
- (f) whether it is not a fact that some habitable rooms in some of the quarters and some privies in others are devoid of electric light points altogether;
- (g) whether it is not a fact that in some of the Firoz Shah Road quarters there is no water-tap either in the courtyard or outside the quarters compound as there exist in Windsor Place quarters;
- (h) whether it is not a fact that each of the privies in Firoz Shah Road quarters has a water-tap attached to it which cannot be used for any other purpose but for that of the lavatory; and
- (i) on how many occasions during the last four Delhi Sessions the Executive Engineer, Public Works Department, Central, or his Deputy, or his Assistant has visited the Members' places either to see how they had been accommodated, or to find out what inconveniences they suffered from or to take suggestions from them as to how to improve existing accommodation?

The Honourable Sir Frank Noyce: (a) Yes. The equipment and conveniences vary according to the designs of the buildings.

(b) Yes, but this is because the capital cost of the building forms the basis of rent.

(c) Yes.

(d) No. In any case its situation renders it unsuitable for conversion into a bed room.

(e) This could be done and Government will be glad to consider the matter as soon as financial conditions permit.

(f) All the bed rooms have been provided with electric light points, some of them very recently. Some of the servants' rooms and privies are not provided with light points. This will be done as rapidly as funds permit.

(g) and (h). Yes. I should however explain that there are taps inside the quarters in Ferozeshah Road but not in the courtyards there.

(i) The Executive Engineer and his Assistants are constantly in touch with the work on these buildings and can be called upon by the Honourable Members to see to any work that needs attention.

Mr. S. G. Jog: Is it not a fact that the Ferozeshah Road quarters, known as Bungalows, have got more accommodation and the occupants pay less rent whereas in other quarters there is less accommodation and more rent?

The Honourable Sir Frank Noyce: Yes: I have explained why that is so: the reason is that the capital cost of the building forms the basis of rent, and, for some reason of which I am not aware, the buildings in the one case cost more than those in the other. The rent is based on that fact.

Mr. S. G. Jog: May I know how the house rent has got anything to do with the cost of the building? The whole matter can be adjusted without incurring any loss by the Government by providing that those who have got more accommodation should pay more rent and those who have less accommodation should pay less. Government need not be concerned with the capital cost of buildings.

The Honourable Sir Frank Noyce: Government are concerned with it and the rent is levied in accordance with their rules regarding it.

Mr. S. G. Jog: That rule seems to be inequitable.

FREE QUARTERS TO THE BOY PEONS OF THE CENTRAL TELEGRAPH OFFICE, NEW DELHI.

1513. *Mr. Muhammad Anwar-ul-Azim: (a) Is it a fact that the peons, jamadars, overseers, daffries and record lifters of the Government of India and their Attached Offices, drawing salaries up to Rs. 40 are entitled to free quarters?

(b) Are Government aware that the boy peons of the Central Telegraph Office, New Delhi, drawing a pay of Rs. 10 to 12 have to forfeit their house rent allowance of Rs. 2 each and pay ten per cent. extra rent, viz., a total of about 80 per cent. for occupying quarters?

(c) If the reply to the above be in the affirmative, do Government intend to allot them free quarters?

(d) Has Government's attention been drawn to resolution No. 30 on the same subject appearing on page 23 of the *Postal Advocate* of April 1932, passed at the Annual Conference of the Indian Posts and Telegraphs Muslim Union? If so, what action have Government taken in the matter?

Mr. T. Ryan: (a) Yes.

(b) and (c). The grant of free quarters or house rent allowance in lieu thereof is not a recognised condition of service for boy peons. No question of forfeiture of house rent allowance therefore arises. Some of these boy peons were however for a time allowed the concession by a mistake,—and this has been stopped.

(d) Government have seen the resolution. The last part of the question does not arise in view of the reply to parts (b) and (c) above.

POSTS OF TELEPHONE MISTRIES AND OPERATORS.

1514. ***Mr. Muhammad Anwar-ul-Azim:** (a) Is it a fact that, under the Government of India, Department of Industries and Labour, Posts and Telegraphs Branch letter No. 844-Est. A./28, dated New Delhi, the 4th March, 1929, from the Assistant Secretary to the Government of India to the Director General of Posts and Telegraphs, the telephone mistries and operators were informed that the matter of converting their posts as permanent and pensionable or whether they will be granted the benefits of a contributory provident fund was under consideration?

(b) If the reply be in the affirmative, have Government come to any decision yet?

(c) If no decision has been made yet, what will be their position after being retrenched under the retrenchment rules?

(d) Do Government intend to do something in their favour?

Mr. T. Ryan: (a) Yes.

(b) No; the matter has not been pursued owing to the unfavourable financial conditions.

(c) The Honourable Member's attention is invited to section C of the Director General's Special General Circular No. 4, dated the 30th April, 1932, in which are reprinted the retrenchment concessions for which the officials referred to by the Honourable Member are eligible. A copy of this circular has been placed in the Library of the House.

(d) Government are not prepared to extend to these officials concessions in excess of those laid down in the circular referred to in the reply to part (c) above.

PAY AND PROSPECTS OF TELEGRAPH EMPLOYEES AT SIMLA AND NEW DELHI.

1515. ***Mr. Muhammad Anwar-ul-Azim:** (a) Has the attention of Government been drawn to resolution No. 36 (appearing on page 24 of the *Postal Advocate* of April, 1932) passed at the annual conference of the Indian Posts and Telegraphs Muslim Union?

(b) If the reply be in the affirmative, what steps have Government taken to bring them in keeping with the pay and prospects of similar establishment in other telegraph offices in India, viz., Bombay, Calcutta, Rangoon, etc.?

Mr. T. Ryan: (a) Government have seen the resolution.

(b) Government do not consider that the pay and prospects of the staff in question, at Simla and New Delhi, must necessarily correspond with those of staff in much larger towns.

ROTATION OF DUTIES IN TELEGRAPH OFFICES.

1516. ***Mr. Muhammad Anwar-ul-Azim:** (a) Are Government aware that the Director General's communication No. Est.-A./29, dated 15th October, 1929, regarding fair rotation of duties is violated in many telegraph offices?

(b) If not, will Government please lay on the table a statement showing the period every clerk is attached in the administrative branch in the Central Telegraph Office, New Delhi and Delhi?

Mr. T. Ryan: (a) and (b). As Government have no reason to believe that the facts are as stated by the Honourable Member, they do not consider that any useful purpose would be served by the preparation of the statements which he suggests. A copy of the question is, however, being sent to the Postmaster General, Punjab.

EMPLOYMENT OF MUSLIMS IN THE ESTABLISHMENT AND ACCOUNTS BRANCHES IN THE CENTRAL TELEGRAPH OFFICE, NEW DELHI AND DELHI.

1517. ***Mr. Muhammad Anwar-ul-Azim:** Will Government be pleased to state if any Muslims have ever been given any chance to work in the administrative branch especially in the establishment and accounts branches in the Central Telegraph Office, New Delhi and Delhi? If not, why not?

The Honourable Sir Frank Noyce: Government have no information and do not propose to call for it as postings of officials in the different branches of a telegraph office are not made on the basis of communal representation.

EMPLOYMENT OF MUSLIMS IN THE ESTABLISHMENT AND ACCOUNTS BRANCHES IN THE CENTRAL TELEGRAPH OFFICE, NEW DELHI AND DELHI.

1518. ***Mr. Muhammad Anwar-ul-Azim:** (a) Is it a fact that in the Central Telegraph Office, Simla—New Delhi, Muslim clerks, though senior, have never been employed in the administrative branch, whereas their juniors have had the chances?

(b) Will Government please state as to how the second grade clerks will get experience of the establishment and accounts branches unless they are attached to the said branches?

(c) What action are Government going to take in the matter, with reference to the Director General, Posts and Telegraphs, Communication No. Est.-A./29, dated the 15th October, 1929?

Mr. T. Ryan: (a) Government have no information. The postings of clerks are made by the Head of the office.

(b) By 'Second grade clerks' the Honourable Member presumably refers to the lower division clerks who are meant for work of a routine nature and are not required to take up establishment or accounts work.

(c) None, as the orders referred to apply only to ordinary time-scale or upper division clerks.

GRANT OF LEAVE TO MUSLIM EMPLOYEES OF THE CENTRAL TELEGRAPH OFFICE, NEW DELHI, FOR JUMA PRAYERS.

1519. *Mr. Muhammad Anwar-ul-Azim: (a) Is it a fact that the Director General, Posts and Telegraphs, in his Circular No. 18, dated the 2nd July, 1918, issued an order for the grant of one hour's leave to Muslim employees of the Posts and Telegraphs Department for Juma prayers on Fridays?

(b) If so, will Government please state whether the above order was violated on the 26th August, 1982, in the Central Telegraph Office, New Delhi? If so, why?

(c) Do Government propose to renew the order referred to at part (a) above?

The Honourable Sir Frank Noyce: (a) Yes, but the circular was subsequently modified by instructions issued in Part V of the Director General's Circular No. 20, dated the 28th August, 1918, to the effect that in offices other than those of Heads of Circles and Superintendents of Post Offices, the concession should be allowed as far as possible subject to the condition that the arrangement did not interfere with public business or cause extra expense to Government.

(b) No. There was no violation of the Circular as subsequently modified.

(c) I understand that the circular orders referred to in (a) above, are not always preserved indefinitely and it is possible that they have in some instances been lost sight of. The Director General has undertaken a review of the existing instructions bearing on this subject after which, with any modifications which may be found necessary, they will again be circulated and will also be embodied in the standing orders of the Department.

PRINCIPLE OF ALLOTMENT OF QUARTERS TO THE SUBORDINATE STAFF OF THE CENTRAL TELEGRAPH OFFICE, NEW DELHI.

1520. *Mr. Muhammad Anwar-ul-Azim: (a) Will Government please state what principle is adopted in allotting quarters to the subordinate staff of the Central Telegraph Office, New Delhi?

(b) Is it a fact that the Director, Telegraph Engineering, decided that the clerks who have got their own house at Delhi and the clerks of the administrative branch who have got only day duty have no prior claims to that of the migratory staff and other establishment who were attached to the Instrument room and have got revolving duties including the station scale telegraphists who have got similar duties and are expected to attend the office any time during the day and night?

(c) If the reply be in the affirmative, will Government please state why the clerk, B. Kanhyalall, who belongs to Delhi and resides in his own house at Delhi, has sublet his quarter to one Mr. Daleepsingh, clerk of D. A. G.'s office, and the clerks, Messrs. Moolchand, Ramsaroop, Parashar, and other clerks attached to the administrative branch have been allowed to retain their quarters, whereas the clerks, Messrs. Mohd. Ilyas, Sagarmul, Ramsingh and Musa Khan, attached to the Instrument room and some of whom belong to the migratory staff, have not yet been allotted any quarters?

(d) Will Government please state whether they are aware that the station scale telegraphists of New Delhi are threatened that severe action will be taken against them, if they do not vacate their quarters? if so, why? Are they not supposed to be on duty any time during day and night?

(e) Do Government propose to take immediate steps in the matter?

Mr. T. Ryan: (a) to (e). Government have no information on the points raised by the Honourable Member all of which are within the competence of the Head of the Circle. If, however, as the Honourable Member suggests in part (d) of this question, it is a fact that quarters have not been allotted to certain officials who are entitled to them, it is open to them to represent their grievances through the proper official channel.

MUSLIM AND NON-MUSLIM TIME-KEEPERS IN THE PUNJAB AND NORTH-WEST FRONTIER POSTAL CIRCLE.

1521. *Mr. Muhammad Anwar-ul-Azim: Will Government please state the number of Muslims and non-Muslims recruited in the cadre of time-keepers in the Punjab and North-West Frontier Postal Circle since 1927?

The Honourable Sir Frank Noyce: In all eight persons have been appointed as Time-keepers in the Punjab and North-West Frontier Circle since 1927. Of these, six were Hindus, one was a Muslim and one a Sikh.

THE CRIMINAL LAW AMENDMENT BILL—contd.

Mr. N. N. Anklesaria (Bombay Northern Division: Non-Muhammadan Rural): Sir, I move:

"That in sub-clause (1) of clause 5 of the Bill, after the word 'force' the words 'knowing or having reason to believe that such copies have been so declared to be forfeited' be inserted."

After the insertion of these words, the clause will read as follows:

"Whoever publishes, circulates or repeats in public any passage from a newspaper, book or other document copies whereof have been declared to be forfeited to His Majesty under any law for the time being in force, *knowing or having reason to believe that such copies have been so declared to be forfeited*, shall be punished," etc., etc.

Those who have had the misfortune or good fortune to appear in such scurrilous and seditious publications as "*The Congress Bulletin*", and those who realise the enormous mischief which such unauthorised publications have been doing throughout the country, especially in my province of Guzerat, will vividly realise the necessity for legislation like that embodied in this clause, and it is a matter of gratification to me that the House has by such a large majority rejected the amendment for its deletion. However, if you read the clause, you find that it is too extensive in its ambit and I am afraid, as it is worded at present, it will bring in its meshes perfectly innocent persons. I think it will be agreed on all sides of the House that we must frame our laws in such a manner that while, if possible, no guilty man should escape, no innocent man should suffer.

Sir, I am moving this amendment with the greater conviction, because all reference to the Indian Penal Code has been done away with in this

[Mr. N. N. Anklesaria.]

Bill. Had this clause been a part of the Indian Penal Code, then the general exceptions which are in favour of protecting the innocent would have certainly applied. I know that the High Court of Bombay has ruled that the general exceptions in the Penal Code do apply to special laws, but, on the other hand, the High Court of Madras has ruled to the contrary and, in this state of conflicting authorities, I think a provision ought to be made for the protection of really inadvertent and, therefore, really innocent publications. The Select Committee felt pressed with this consideration of providing protection for inadvertent and innocent publications, but the remedy suggested was, as I had the honour to tell the House yesterday, both inadequate and, as I said yesterday, sub-clause (2) far from serving as a protection to the innocent, was likely to prove a trap to the unwary and would be a source of embarrassment to Government by leading to a conflict of authorities. I shall not dilate on this point today, but I may straightaway state my most serious objection against this clause, and it is this, that it fails to protect that large class of cases in which a person repeats an objectionable and offending passage inadvertently and in total ignorance of the fact that the passage or the document in which that passage occurs has been proscribed by some Local Government or other. To repeat a passage is a perfectly innocent act in ordinary circumstances. School masters repeat passages for their literary merit; religious teachers repeat passages for religious instruction. I say, in ordinary circumstances repetition or publication of a document or a passage is a perfectly innocent act. I will cite the instance of a publication called *Kansa Vadha*, execution of *Kansa*. It is a story from the Bhagwat, the religious scriptures of the Hindus, and it treats of the summary execution of a tyrant. I say, if you read that pamphlet in public in ordinary circumstances, that reading would be perfectly edifying, but, in the present circumstances of the country, I think the pamphlet could be proscribed with perfect propriety. Take another instance of a certain propagandist pamphlet, which is being circulated among my friends, about the Ottawa Agreement. That document is a perfectly misleading document, because it is based not on facts, but on pure imagination. Now, a Governor, Mussolini minded, may choose to proscribe that document, though, as I said, in ordinary circumstances it would be perfectly innocent to read, or repeat or publish that pamphlet.

Now, Sir, this clause, as I said, seeks to make penal an act which would be perfectly innocent in ordinary circumstances. I say, the circumstances of the country do require such legislation, but, I ask, what becomes of the man who repeats or publishes a document in total ignorance of the particular circumstances in which that document becomes objectionable from the point of view of law, and the ignorance, I further presume, is not the result of any fault of the man who repeats or publishes the document. In short, the clause, as it is worded at present, not only does not require a guilty intention in the accused, but also it does not require any knowledge of the circumstances which is absolutely requisite to make the act penal, and, I say, in this failure to embody the requisite knowledge in the accused person, the clause offends against one of the primary principles of criminal jurisprudence. I think the Honourable the Law Member will agree that every definition of a crime really so-called, known to law, must and does contain a proposition as to a state of mind in the accused person. That state of mind may be an intention, may be knowledge, may be malice,

may be rashness, and if I may commit an Irishism, may be negligence. And, indeed, Sir, leaving aside for a moment the theory of "wrongs of absolute liability" to which I shall refer later on, I think it will be agreed on all sides that in every crime the principle is that some psychological element which I have described must enter in order to make the act criminal. That is a principle which is described in very great detail in the leading case of *Tolson* decided in 1889 and reported in 1889, 23, Q. B. D., page 168. My Honourable friend, the Law Member, will find the relevant remarks at page 187 of the Report. That same principle was emphatically reasserted and re-affirmed in the case of *Sherras vs. De Rutzen* six years later, as reported in 1895, 1. Queen's Bench, page 918. That same principle is embodied in our own Indian Penal Code which has served as a model criminal code to many civilised countries of the world. And those who heard the incisive speeches of the Honourable the Home Member in the present debates could not possibly forget the insistence with which he brought to the notice of the House the fact that the offences which are described in the different clauses of the Bill always provide for criminal intent being requisite for making an act criminal. I ask, where is that criminal intent in clause 5? You will find that clause 5 is the only clause in which neither expressly nor by implication the psychological element so requisite to make an act criminal is to be found. In order to save the time of the House, I shall not go through all the clauses to show this, but I may tell the House that that is a fact which will be apparent to anybody who goes through the clauses.

The psychological element of which I have spoken is called by lawyers *mens rea*, and the conception of *mens rea* has been analysed by Professor Clarke in his book "Criminal Liability". He says this *mens rea* requires three elements, namely, a power of volition in the doer of the act, which is adjudged to be guilty, secondly, knowledge of the circumstances which make the act criminal, and, thirdly, in certain cases, foresight of the consequences. In this clause the second element, and I consider it the most important element, is wanting. I have been citing these authorities in order to escape from the charge of "a confusion of thought". I would now come to the theory of "wrongs of absolute liability" which was propounded by the Honourable the Law Member in support of his contentions. I know that these wrongs, which are called wrongs of absolute liability, do not require the mental element of which I have spoken. But I also know, Sir, that these wrongs of absolute liability have been said by a great Judge, as you will find in *Sherras vs. De Rutzen*, to fall into three classes, and I will read to you the three classes mentioned in that case. Firstly, cases, not criminal in any real sense, but which in the public interest are prohibited under a penalty; secondly, public nuisances; and, thirdly, cases criminal in form, but which are really only a summary mode of enforcing a civil right. Now, I ask my Honourable friend, the Law Member, in which of these three classes does this clause 5 fall? Is it a trivial offence? It is an offence punishable, be it noted, with six months' imprisonment and a fine of unlimited amount—a most serious offence. It cannot, therefore, come within class 1. Is it an offence which can be called a public nuisance? Of course not. Nor can I say it can possibly fall within class 3 which speaks of cases criminal in form only, but really civil in their nature as regards liability. Within none of these three classes can clause 5 be by any stretch of imagination brought. I submit, therefore, that the theory of wrongs of absolute liability does not help

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my Honourable friend. Dr. Kenny, at page 48 of Kenny's Criminal Law, speaks of the grounds on which the Legislature in modern times, though very averse to creating wrongs of absolute liability, does think it fit to enact such Statutes, and these grounds are, firstly, that the penalty incurred is not great. The penalty incurred here is six months' imprisonment and a fine of unlimited amount. Secondly, the damage caused to the public by the offence is in comparison with the penalty very great; and, thirdly, where the offence is such that there would usually be peculiar difficulty in obtaining adequate evidence of the ordinary *mens rea* if a high degree of guilt were to be required. Now, all these three grounds must co-exist according to Kenny in order to make it desirable for the Legislature to enact a fresh "wrong of absolute liability". I say, that none of these three grounds holds good in the present case. Again, Sir, this is a deterrent piece of legislation,—legislation which is being enacted for the purpose of fighting the manifestations of the civil disobedience movement, and it could only be effective if it is deterrent. Therefore, it is advisable to make the fine unlimited as it has been done in the Bill, as I say, with perfect propriety. But if you aim at deterrence, how can you possibly deter a man who is absolutely ignorant of what he is doing? You cannot deter a man when the man does not know what he is doing. The main purpose of your legislation, therefore, will be frustrated by not requiring knowledge or reasonable belief in the accused as stated in my amendment. Sir, to be brief, the failure to embody the principle which I have just stated in this clause is bound to lead to very regrettable results. Just consider how this clause will work in actual practice. Suppose there is a document containing 15 passages, of which passages, Nos. 10, 12 and 14 are objectionable, are seditious or obscene or objectionable on one ground or other, and that document is published first in Madras and the Government of Madras declare it—it has got to be declared according to section 99B, objectionable, specifying the objectionable passages and, on that ground and on that ground alone, proscribing the document. As I said, there are only three objectionable passages in that document containing 15 passages. As you know, Sir, our Government move very slowly. After the period of appeal on that declaration of forfeiture under the Criminal Procedure Code is passed, some person in the Punjab repeats or reads in public one of the passages from the proscribed document which has not been declared in the notification under section 99B as objectionable. What becomes of the man who so repeats? As I said yesterday, if a sub-inspector hears him repeat that passage which has not been declared objectionable by the Local Government issuing the notification of forfeiture, and reports that in the present circumstances of the Punjab, where the passage has been repeated, the particular passage repeated by the accused is objectionable. Well, the local authorities get the Local Government to notify or give a certificate as the Honourable the Law Member insisted upon saying yesterday, that the passage is objectionable. The accused is hauled up before a Magistrate and the accused says: "I do not know English well and I could not possibly know what the Madras Government Gazette says about the passage as I never heard of the thing, and, before I repeated it, I had no knowledge that the passage was objectionable and the document in which it occurs was proscribed. Can any man, with any sense of fairness or justice, fail to allow such a plea? I say, that the poor Magistrate, however fairminded he may be and however

anxious to do justice between man and man, would be forced to convict the accused and disregard the plea which would appeal to all right minded men. To guard against such regrettable result, I have ventured to bring forward this amendment and I think the Honourable the Home Member is too fair and too just not to see the propriety of the course which I have suggested. If, however, the Government are prepared to proclaim that on account of the voting strength behind them they are not prepared to change a single comma from this Bill, then, I say, the talking of people like me in this House would be absolutely useless and it is better to stop it, but, as I say, the Honourable the Home Member is too fair minded not to see the propriety of this amendment. It is a very reasonable amendment and I am quite sure that if the House agrees to that amendment, the Bill will not be reduced to a pale shadow of its former self, which was the condition laid down by the Honourable Member for his acceding to any amendment from this side. I am quite conscious of the difficulty of bringing home to the accused the knowledge of the circumstances in which the publication becomes objectionable. I am quite alive to those difficulties. But to quote the authority on which the Honourable the Law Member relied, Sir John Salmond, that difficulty must be honestly faced and must not be shirked. I say to the Government, if you find difficulty in bringing home knowledge or reasonable belief to the accused, don't shirk the difficulty, but face it honestly. It is not a superhuman difficulty which cannot be faced. Sir, in the 510 sections of the Indian Penal Code we have got more than 30 sections in which these very words "knowing or having reason to believe" occur, and we have never heard—and I think my lawyer friends will bear me out in this—that those words have been creating any difficulty in the administration of the law to which those sections relate. Nor has the Honourable the Home Member pointed out that in any instance, any of the sections of the Ordinance in which the mental element is required has ever been a source of difficulty in the administration thereof. Sir, after all, the difficulty in convicting the guilty should not possibly be allowed to stand in the way of protecting the innocent, for the maxim is "let a hundred guilty escape, but let not one innocent suffer". With these remarks, Sir, I commend my amendment to the House and to Government.

Mr. B. V. Jadhav (Bombay, Central Division: Non-Muhammadan Rural): Sir, I have great pleasure in supporting the amendment moved so eloquently by my Honourable friend from Guzerat. But I am very sorry to observe that sometimes the awakening comes too late. Had my friend used only one minute in pressing this argument before the Select Committee, it is a foregone conclusion that it would have been accepted because there his vote had a tremendous value.

Mr. N. N. Anklesaria: You are talking of the Select Committee? Well there this was the very amendment which I suggested, but I am sorry to say that my Honourable friend among others did not support me. (Laughter.)

Mr. B. V. Jadhav: Well, my memory does not bear that out.

Mr. N. N. Anklesaria: My memory is perfectly accurate.

Mr. B. V. Jadhav: I do not think I did not support any amendment which my Honourable friend moved there.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order. Questions about voting in the Select Committee ought not to be brought on the floor of the House.

Mr. B. V. Jadhav: I accept your ruling, Sir. But then my Honourable friend has now thought it proper to appeal to the great truth in the administration of justice that it would not matter if a thousand guilty men were to be acquitted, but one innocent man ought not to be convicted. Sir, I think this sentiment has been relegated to oblivion, because the principle of this Bill is: "let a hundred innocents be convicted, but let not one guilty man be let off". (Laughter.) With all that, Sir, I admire the frankness of my Honourable friend, the Mover of this amendment, and I heartily support him.

Mr. C. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): Sir, I rise to congratulate my Honourable friend, Mr. Anklesaria, on the very clear, forcible and closely-reasoned speech that he has delivered. I hope the Honourable the Home Member will not behave, as he has been behaving right through this debate, like what Sheridan called "an allegory on the banks of the Nile"—as obstinate and as head-strong as an allegory on the banks of the Nile. (An Honourable Member: "An alligator?") Sir, the Honourable the Home Member has not listened to one single amendment. He has not adopted one single amendment that we have been pressing from this side of the House, and the Honourable the Law Member too has been equally head-strong, rising up to Sheridan's description of obstinacy compared to the "allegory" on the banks of the Nile. Sir, I have no faith in what the previous speaker referred to as to particular happenings inside the Select Committee being adhered to in this House. I was not on the Select Committee and I have no disclosures to make within the precincts of this House. Sir, we have seen that the Honourable the Home Member has not hesitated to lay his unholy hand on the recommendations of the Select Committee. This Bill, as it has emanated from, and been amended by, the Select Committee, has not been left untouched by hand like Mellin's Food. Therefore, Sir, I believe at least once in a way the Honourable the Home Member will be rather kind to this side of the House and listen to the advice of one who does not always persist in obstinately opposing the Government.

Mr. Goswami M. R. Puri (Central Provinces: Landholders): Sir, I rise to support this amendment moved by my Honourable friend, Mr. Anklesaria, and I would also like to congratulate him upon the lucid speech that he has made and the solid arguments that he has placed before this House. Sir, this amendment aims at securing that no guilty man should escape and no innocent man should suffer, and that repetition or publication of articles in total ignorance should not be made an offence. Sir, I would submit that the request made by my Honourable friend, the Mover of the amendment, is quite reasonable and I hope the Government will comply with the request of the non-official Members of this House. With these words, I support the motion.

Mr. S. G. Jog (Berar Representative): Sir, I would congratulate my friend, Mr. Anklesaria, on the amendment that he has moved. I would like to bring to the notice of the House that this is an amendment which

requires no other reasoning. The very fact that it has emanated from Mr. Anklesaria is quite sufficient in itself that it is a most reasonable amendment. It is not an amendment which has come from this side of the House; it is not an amendment which has come from a man who either belongs to the Congress or belongs to a side with Congress sympathies. Nothing of the sort. It has come from a man whose motives cannot, under any circumstances, be questioned by anybody at least on that side of the House. Sir, so far as the discussions in the Select Committee go—I hope I am not washing dirty linen—my friend, Mr. Anklesaria, was very keen, with regard to any clause, to get that qualified by adding the words at times, "wilfully" or "knowingly" or "having reason to believe" or some such words which would bring home to the accused that he had *mens rea*. In every case we wanted to have that qualifying phrase, "whoever either wilfully does it", or "whoever knowingly, or having reason to believe, does a particular thing, whoever deliberately does any such thing",

and so on. All these qualifying words we were always trying to have so as to mitigate the rigour of the law. In some cases we did succeed, and in some cases we did not succeed. This is one of those cases in which we were unable to achieve anything. This clause No. 5 corresponds to section 20A of the Special Powers Act. I must admit and give some credit to the occupants of the Treasury Benches and the Home Member and the Law Member that there is no doubt that there is a slight improvement on the provisions as they existed in the Ordinance. Section 20 of the Ordinance had no such *Explanation* which is added in this new Bill. The power given to the Local Government was not in the Special Powers Ordinance and, to that extent, I must admit that there is some improvement. At the same time, it must be said that the clause, even as it is, will go a great way in harassing many innocent people who probably did not know at the time of publishing a thing that a particular portion of it or the particular thing itself was proscribed. If you look at these Gazettes, you will find that, in the first place, they are published in English and they are published in different provinces. I think every week there is a regular list of things that have been proscribed and in each issue a number of them appear. It is no doubt true that ignorance of law or ignorance of these things is no excuse, but having regard to such a mass of things of proscribed literature that appear in every Gazette, there may be hard cases where a man might not have seen all those lists of proscribed literature. I would also appeal even to the Home Member or even to the Law Member whether they ever care to read all these notifications that appear in the various Gazettes about these proscribed literature. Then they must also take into account what must be happening to other people who are not so much conversant with what is published in these Gazettes. If a thing is published in Madras, does he want that even a man in the North-West Frontier Province should know what actually has taken place in the southernmost corner of India? India is a vast country and what is published in the Gazettes in the southernmost corner of the country should also be known by every man in the North-West Frontier Province. If that is the idea, I think it is far from realities. If you look at this question from this standpoint, there may be many cases which will be open to defence.

The clause, as it runs, says that as soon the man produces a certificate from the Local Government that the so-called portion is objectionable or seditious on some other grounds, that publication becomes seditious and

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the only thing the prosecution will have to prove is that it was published, circulated or repeated. But so far as the defence of the accused is concerned, he may have certain defence of innocence or he did not actually know the thing or there may be some extenuating circumstances in which you cannot charge that man with any deliberate motive or any criminal intention or that he had any idea of deliberately breaking the law, or that he was deliberately repeating that particular portion which the Government had proscribed. That element, that idea, that motive may be quite absent in that man and even then the Magistrate can say: "Yes, it is a fact that you did not know about that proscribed literature and you never had any intention of deliberately giving publicity to that proscribed literature, but I am very sorry the Legislators have not made any such provision." The Law Member has not made any such provision for any such defence and that is why the Magistrate will be helpless. I submit, therefore, that to meet such defences, there must be some provision in this clause. The amendment that is suggested by my friend, I think, is quite reasonable. The words "knowing or having reason to believe" will probably meet the case. There is no difficulty for the prosecution to prove these things. After all, in many cases the Judge or the Magistrate has come to the conclusion on the circumstances of the case. The difficulty which the Government probably anticipates is how to establish "knowing or having reason to believe" or his motive. I may suggest that there might be the antecedents of the man or some other circumstances from which it can be presumed or established that that man deliberately repeated or circulated the proscribed literature. But, in the absence of such surrounding circumstances if there is nothing for the Magistrate to come to the conclusion that that publication or recitation was deliberately done, then the only alternative for the Magistrate is to let go that man. But the law, as it is, will be found to be defective and the Magistrate will be helpless.

There is another thing which I might suggest. If the Government are stiff enough not to change even a comma or not to accept the amendment as proposed by my Honourable friend, then I might suggest another thing. Under sub-clause (2), when the prosecution will go before the Local Government for a certificate, naturally the man must be arrested on the report of the sub-inspector or some other police officer that such and such proscribed literature was read or circulated by him. Then the matter goes to the Local Government or the District Magistrate or whatsoever authority may be appointed in this behalf, who will not issue any notice to that man. In other words, he will have no opportunity of saying whether he has anything to say against the certificate. What the Local Government or the District Magistrate will say is, whether that particular passage comes within the objectionable clause and whether it can be certified. But if, in that state of proceedings, an opportunity can be given by the Local Government enabling that man to give an explanation which probably in many cases the Local Government may find to be satisfactory in that case, before giving the certificate, the Local Government may feel satisfied that that man cannot be charged with any direct motive or with an idea of breaking the law or that that particular publication or recitation had nothing to do with the so-called civil disobedience movement. In that case the Local Government may not give this certificate and may excuse that man. If the Government see no reason to accept the amendment of my friend, then I might suggest that some such provision will probably meet such hard cases. But so long as that amendment is not before the

House, I have no other alternative but to support the amendment of my friend. One thing which we must always bear in mind, while framing laws to combat the civil disobedience movement, is that we must see that the laws so framed should stand the test of the other laws. As suggested by my Honourable friend, *mens rea* of the criminal intention is the fundamental thing. No man can be charged for anything if he had no criminal intention, and when we are having this legislation, even according to the Government programme, for three years, we must see that the legislation which they propose to have now must stand all the tests of criminal jurisprudence. Sir, I most heartily support the amendment of my friend, Mr. Anklesaria.

Pandit Satyendra Nath Sen: Sir, I have much pleasure in supporting the amendment moved by my friend, Mr. Anklesaria, with whom I seldom see eye to eye in this House where our positions from each other are as distant as the poles. Sir, sub-clause (1) of clause 5, as it stands, is not only wide, but also wild in its scope. As a layman I think that in order to make me liable either of two points at least should be proved against me, namely, that the passage itself which has been repeated or recited by me is in itself objectionable or offending, or that I have knowledge of the fact that the original work has been proscribed and forfeited to His Majesty. Sir, the first point has been rejected by this House. A very valuable suggestion came from an utterly unusual quarter yesterday, namely, from my Honourable friend, Major Nawab Ahmad Nawaz Khan. But my Honourable friend is a layman and my Honourable friend, Mr. S. C. Sen, wanted to give that suggestion a legal shape. When that amendment has been rejected by this House, it has become very necessary that this amendment should be accepted. When that amendment was being discussed in this House yesterday, the Honourable the Law Member rose and spoke against it. I pricked up my ears and, being a stupid man, I failed to catch the exact spirit of his argument. I was anxious to know whether the certificate of the Local Government was subject to scrutiny by the trying Magistrate; and, if I understood the Law Member rightly, I understood him to say that it was subject to such scrutiny. But the next moment he spoke in a different strain and I gathered that the trying Magistrate was simply to ascertain whether the repetition was made by the accused and he was to give his award. He was not entitled to examine and scrutinise the certificate of the Local Government. If that is so, I think every literate man runs the risk of coming within the clutches of the law, because in these busy times no one can be expected to keep a regular account of what publications are proscribed and what are not; and also because they are published only in the Government Gazettes which are hardly available to the ordinary man. Sir, it may be argued that it will be very difficult for Government to prove the knowledge of the accused; but, I think, whatever may be the difficulty, we cannot throw to the winds the cardinal principle of jurisprudence which is so much talked of in this connection that no innocent man should be made to suffer. With these words, I support the amendment.

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Urban): Sir, an amendment of this nature stood in my name. By that amendment I wanted to throw the burden on the prosecution to prove the knowledge of the accused as regards the proscription of the book, or passage, or pamphlet. But when I saw that there was a more comprehensive amendment and, at the same time, one which threw a lesser burden on the

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prosecution, I dropped my own amendment in favour of Mr. Anklesaria's. By this amendment it is not intended to throw the burden on the prosecution to prove the intention, nor would it be asking for the burden of only knowledge, but even if the knowledge is not proved, they should prove at least that the accused had reason to believe. I think it is very reasonable and I think in all laws we find that either intention or knowledge or reason to believe is always made the gist of the offence. In this case, as the clause stands, it is a bald one. It says that whoever publishes or repeats a passage from a book or a pamphlet which has been proscribed will be punished. Whether that man knows or not, or has reason to believe or not that the offending matter was really proscribed, he would still be punished. Now, in the debate, it has been urged that the proscribed books, etc., are published in the Gazette. They are no doubt published, but the reason has also been given that they are so many that nobody has any time to read them, and, therefore, it cannot be said that the general principle of presumption that everybody knows the law can be thrown on such a person when the publication is proscribed under this clause. It would be absurd from the common sense point of view but, even according to law, any notification that is published has not the effect of law, so that according to law there can be a presumption against him. It is only when a particular law has been enacted that it brings out the presumption that everybody knows the law, but the particular notification of Government will not come under that category. Therefore I am submitting that when the burden has been lessened, the amendment is very reasonable. Otherwise my excuse for speaking on this would be to ask the Law Member a direct question on this point. Suppose that there is an accused before a Court. This accused has really published or repeated a passage, but Government come to know that that man had really no intention or any ulterior motive. He was also absent from India and has come back quite recently and he did not know of the notification of proscription and he had no reason to believe it. Supposing there is such an accused, will Government ask that the man should be punished or will they say that this clause does not apply? If Government say that this clause would not apply to that man, they would hold that this man should not be prosecuted and I would be satisfied. But, on the general principle, what would be the reply to such a case? I submit that a direct reply should come from Government. Therefore, I am submitting that, in my humble opinion, Government will not hold or give that reply direct to this clause, as it stands, or, as it is enacted, unless certain words are put into it of the nature of this amendment. Sir, I support the amendment.

Mr. Amar Nath Dutt (Burdwan Division: Non-Muhammadan Rural): Sir, I also join in the chorus of congratulation to the Honourable the Mover of this amendment. I remember, two years ago when I met my learned friend for the first time in the Western Hostel, he was eager to form His Majesty's Opposition here with my esteemed friend, Sir Hari Singh Gour, as the Leader; but there was some difference of opinion and Diwan Bahadur Rangachariar became the Leader and so he did not join us. Now, I find that the advent of our new Leader, Sir Hari Singh Gour, has also brought him over to our side. This is as it should be for he represents the constituency from which, Sir, your predecessor in office came, and it is but right that he should follow in the footsteps of that great

predecessor of yours. I supported the deletion of the whole clause, because I felt that there was no necessity for it; but having failed in our attempt to have this clause deleted, the only other alternative that I find can be adopted in the interests both of the Government and of the Governed was to have the clause modified in the way in which my Honourable friend, the Mover of the amendment, wants to have it modified. It has been said by my Honourable friend, Mr. Jog, whom I do not see here now, that this amendment is a very reasonable one, as if the other amendments were not. I do not agree with him there. Unless an amendment is reasonable, I do not think any reasonable man will support it. There may be divergence of views and we may be looking at things from different standpoints. In spite of that, when you find that every amendment has its supporters—and there were more than one—we should not characterise a particular amendment as the only reasonable one. Then, again, I do not agree with my Honourable friend, Mr. Jog, when he says that his motive cannot be questioned. Nobody has questioned motives. On the other hand, I would ask him to accept it and that he should not question the motives of any of the Honourable Members who have moved several amendments. No one had any motive, even my Honourable friend, the Law Member, when moving his amendments—save and except the interest of his country to serve and the Government of the country. As I have already said that our angle of vision may be different, but nobody can question the honesty and sincerity of purpose of the Members of the Treasury Benches as well as Members of the Opposition. With respect to this clause and the amendment, I submit that the same reasons have been advanced for enacting sub-clause (2) and I do not agree with that for reasons which I have said in another amendment to a clause of like nature. Be that as it may, I submit that this amendment should be accepted by the Honourable the Home Member on this very ground if I can convince him that the reasons for which he wanted to enact this clause do not exist. He said yesterday that people who took to civil disobedience methods, the first thing that they did was without any reason whatever to begin to read passages from proscribed literature. If they do it for the fun of the thing, I say, why do you not leave them severely alone?

The Honourable Mr. H. G. Haig (Home Member): I did not say yesterday that they did it without any reason. The reason obviously is to spread seditious utterances.

Mr. Amar Nath Dutt: In that case my reading of these facts is a little different from the Honourable Member's. I think in many cases simply for the fun of it and to annoy the officers they do it. I may give instances of people crying "Bande Mataram" whenever they see a man who would not like that cry. It is no doubt annoying, but if the man whom he intends to annoy only exercises a little self-restraint which is expected of responsible men, I think in that case the man who cries will be tired of doing so. As I was saying, I disagree with my Honourable friend over there when he says that this will spread sedition. It is misgovernment only that can breed real sedition leading to revolutionary methods. It is oppression and tyranny that is the cause of real sedition and sedition, in mere talk or out of mere fun to annoy a particular Government officer or a particular citizen who wants to show himself up as a very very loyal citizen for some ulterior motive, I beg to submit, is not real sedition. That being so, I think if responsible men will have a little amount of patience and allow these men to follow their own methods,

[Mr. Amar Nath Dutt.]

which after all does not injure Government or anybody else for the matter of that, I think there will be no such cries and no such things done for the sake of fun for any length of time and the thing will be at an end. But if you want to put a stop even to these things in that way, I think you ought to accept the very reasonable amendment for the sake of making the law a real law and not a negation of all laws. It has been argued that ignorance of law is no excuse. But that principle does not extend to executive acts and the Honourable the Home Member said that these are executive acts and these executive acts he wants to legalise. Publication in a Gazette of proscribed literature is an executive act and I am aware of no system of jurisprudence which compels us to know of all executive acts that may be described in that precious official document known as the Gazette of a particular Province or the Gazette of India. I well understand the basis of the principle of ignorance of law is no excuse, but certainly there is no such principle as ignorance of an executive act or an executive fiat is also no excuse. In fact, it will be extending the principle too far.

Then, my friend has tried to convince the other side that there should be some test of criminal jurisprudence in a law like this. I submit I am not so hopeful, as my friend, because for the last five or six days we have seen that test of criminal jurisprudence has not appealed to them. That being so, I would invite every elected Member on this side of the House to come over to our side, to once at least forget in their lives that they have not always to please the Government but that at times they have to look to the interests of the people and to vote for this amendment which I support wholeheartedly.

The Honourable Sir Brojendra Mitter (Law Member): Sir, I want to dispel one misconception with regard to the principle which was enunciated by Mr. Jog and repeated by my friend, Mr. Amar Nath Dutt, that ignorance of law is no excuse. That principle has no application whatsoever to this case, because notification of proscription is a matter of fact, and not a matter of law. What is the underlying principle of clause 5? It is this, that no one should publish, circulate or repeat any seditious matter; that is the thing which the Government want to stop. Paraphrasing this clause I would read it like this: "Whoever publishes, circulates or repeats in public a seditious passage from a proscribed book shall be punished". That is not exhaustive, but, for the purpose of my argument, I am confining myself to sedition and not referring to promotion of class hatred. What is sought to be introduced into this clause is this, that he can be punished only if it can be proved that he knows that the book had been proscribed. In support of that argument, Mr. Anklesaria urged that the clause, as it runs, might rope in innocent persons. I contest that proposition. What we are aiming at is the stoppage of repetition of seditious matter. If a man repeats seditious matter, why do you presume he is innocent?

Mr. N. N. Anklesaria: Who calls it seditious?

The Honourable Sir Brojendra Mitter: I am coming to that. The question is asked—who calls it seditious? The Local Government calls it seditious. That is, Sir, as I tried to explain yesterday, not merely the opinion of the Local Government, but the opinion of the Local Government

is subject to the scrutiny of the High Court. An order of proscription may be set aside by the High Court on the ground that the matter complained of is not seditious. Therefore, we start with this that when in the opinion of the Local Government, which is subject to the scrutiny of the High Court, a matter is seditious, that must be taken to be seditious. Start from that point. A man goes and repeats a seditious passage, and he is punished under this clause. Why should you say that we are punishing an innocent person? A man may not know that a book has been proscribed, but certainly he is presumed to know what is seditious and what is not seditious, because that is a question of law. That principle that ignorance of law is no excuse does apply to the case where a man has to judge whether what he is repeating in public is seditious or not seditious. Therefore, the argument that an innocent person may be punished under this clause does not hold good. And how does the amendment improve the situation? That person either knows that a book has been proscribed or he does not. How does his absence of knowledge that it has been proscribed make him any more innocent than what he was before? If he is repeating a seditious passage, the offence is in that repetition, not in his knowledge that the Government have declared it objectionable. That has got no bearing on the nature of the passage. If there be inherent sedition in the passage, it is immaterial whether it is proscribed or not. Supposing it is not proscribed, and a man repeats the seditious passage, is he not liable for prosecution for sedition? Sir, instead of prosecuting a person for sedition, we are providing in this clause that when a person is guilty of sedition, he shall be taken before a Magistrate and the certificate of the Local Government will be conclusive on the point that the passage is seditious. That is, we are substituting executive opinion, which is subject to judicial scrutiny, for the opinion of the Magistrate before whom a man is prosecuted. That is all that this clause proposes to do.

Then my friend Mr. Anklesaria's argument was that we might be penalising a man for repeating a passage which in ordinary circumstances would be perfectly innocent. I submit, Sir, there is no warrant for that supposition, because what in ordinary circumstances would be perfectly innocent would not be a case of repetition of what is intrinsically and inherently seditious

Mr. N. N. Anklesaria: I cited the instance of *Kansa Vadha*, the execution of *Kansa*.

The Honourable Sir Brojendra Mitter: Then his next argument was that this clause did not require guilty intention and, therefore, the clause offended against one of the primary principles of criminal jurisprudence. In elaborating that argument, he dealt with the question of *mens rea*. In this House I have noticed there is a good deal of misconception about *mens rea*. There is no such thing as *mens rea*, as known in English Common law, existing in the Criminal Law of India. Sir, in support of this proposition, which to many of my friends may seem astounding, I shall quote a passage from Mayne's Criminal Law. Dealing with *mens rea*, he says this:

"It is an almost immemorial commonplace of English judges to state that there can be no conviction on a criminal charge, unless the prisoner has a *mens rea*, or guilty mind."

[Sir Brojendra Mitter.]

Then, after quoting some old authorities, he goes on to say:

"Its meaning was discussed with great elaboration in two English cases. . ."

He gives those cases:

"In the last case, Stephen, J., with characteristic independence, expressed an opinion that the maxim itself was not of much practical value, and was not only likely to mislead, but was absolutely misleading; and, in this opinion, Manisty, J., who agreed with him in nothing else, most heartily concurred. When the maxim originated, criminal law practically dealt with common law offences, none of which were defined. The law gave them certain names, such as treason, murder, burglary, larceny, or rape, and left any person who was interested in the matter to find out for himself what these terms meant. To do this he had to resort to the explanations of text-writers and the decisions of judges. There he found that the crime consisted, not merely in doing a particular act, such as killing a man, or carrying away his purse, but in doing the act with a particular knowledge or purpose. The super-added mental state was generalized by the term *mens rea*, and the assertion that no one was a criminal unless he had the *mens rea*, really came only to this, that nothing amounted to a crime which did not include all its necessary ingredients. . . . The maxim that every criminal must have a *mens rea* was generally true, but was always valueless. The real question was, whether in each case the accused had the particular *mens rea* which proved him a criminal."

After discussing the meaning of the expression *mens rea*, Mayne goes on to say:

"Under the Penal Code such a maxim is wholly out of place. Every offence is defined, and the definition states not only what the accused must have done, but the state of his mind with regard to the act when he was doing it. It must have been done knowingly, voluntarily, fraudulently, dishonestly, or the like."

Therefore, to do a thing knowingly is not necessary; in some cases mere voluntary action is *mens rea*. Sir, when a man goes and repeats a seditious passage, does he not do it voluntarily, or does he do it involuntarily? As knowledge is in certain offences an essential element in *mens rea*, so, voluntariness in certain other offences is an essential element in *mens rea*. Here we are dealing not with an offence which has knowledge as an essential element, but of which voluntariness is an essential element. Where then this clause offends any principle of criminal jurisprudence I fail to see. The whole confusion has arisen from the English conception of the expression *mens rea* without reference to its application to Indian offences under the Indian Penal Code and other criminal laws. That is the basis of the whole misconception. Knowledge or criminal intention is not a necessary ingredient in every offence. In many offences voluntariness is quite enough. Let me give this illustration. A man is in possession of an unlicensed firearm. He may or may not know whether license has been taken out for that particular weapon. It is not necessary that he should know it,—that he should know that it is unlicensed. He may not have any criminal intention of making an illegal use of that weapon. Not necessary. The mere fact that he voluntarily possesses an unlicensed revolver is an offence under the law. In that case that voluntary possession is the *mens rea*. No intention is necessary, no knowledge is necessary. I will give another instance. Mr. Ranga Iyer comes from Europe, and lands in Bombay with dutiable goods which he has not declared. He may or may not know that the particular thing—say, six pairs of silk stockings that he has got in his suit case is dutiable. His knowledge is immaterial. The very fact that silk stockings are dutiable is quite enough to constitute an offence. No improper intention may have been in his mind. (Laughter.) He may not have any knowledge of anything, but nevertheless, he will be

guilty of an offence. So much for *mens rea*. My learned friend, Mr. Anklesaria, said, you cannot deter a man from doing what he does not know to be wrong. What is the thing which he has got to know according to the amendment? He has got to know that a thing has been proscribed, not that what he is repeating is right or wrong. That is left to his own judgment. So, his knowledge or his ignorance of the notification in the Gazette has no bearing upon his judgment as to whether the passage which he is repeating is seditious or not seditious. I do not follow that part of the argument of my learned friend. My Honourable friend gave an illustration of a book containing 15 passages, three of which are objectionable and the Madras Government declares these three passages, proscribes them. Ordinarily, when a book is proscribed, the book is proscribed, not that passages are culled out from that book.

Mr. N. N. Anklesaria: The whole book is proscribed.

The Honourable Sir Brojendra Mitter: Then he says, a man reads in public a passage not declared. The premise is wrong, because passages are not declared, the book is declared.

Mr. N. N. Anklesaria: Not declared under section 99B of the Criminal Procedure Code, because they have got to declare what is the seditious matter.

The Honourable Sir Brojendra Mitter: I was thinking of the notification of proscription. In the notification, a book would be proscribed, no passages will be mentioned there.

Mr. N. N. Anklesaria: Because the grounds have to be mentioned in the notification.

The Honourable Sir Brojendra Mitter: The ground mentioned would be that there are passages in the book which are seditious.

Mr. N. N. Anklesaria: Objectionable passages have got to be specified in the notification under section 99B.

The Honourable Sir Brojendra Mitter: I venture to disagree.

Mr. S. G. Mitra (Chittagong and Rajshahi Divisions: Non-Muhammadian Rural): They are not done as a matter of fact.

Mr. N. N. Anklesaria: The matter has to be specified.

The Honourable Sir Brojendra Mitter: Section 99A says:

"Where any newspaper, or book . . . wherever printed, appears to the Local Government to contain any seditious matter, or any matter which promotes or is intended to promote feelings of enmity or hatred between different classes of His Majesty's subjects, that is to say, any matter the publication of which is punishable under section 124-A, or section 153-A, of the Indian Penal Code, the Local Government may, by notification in the local official gazette, stating the grounds of its opinion, declare every copy of the issue of the newspaper containing such matter . . . to be forfeited to His Majesty."

All that the Local Government has to do is to state the grounds of its opinion, and it would be a statement of the grounds of its opinion if it says that this book contains matter which promotes class hatred, or this book contains matter which is seditious under section 124A. That would

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be quite enough. It is not necessary to quote passages, and it is not usual to quote passages. Then, my friend went on to say that the sub-inspector in the Punjab reports that a certain passage was repeated which was not declared by the Madras Government as seditious. Sir, as I have said, the Madras Government has not declared any passages and if the sub-inspector brings to the notice of the Local Government a seditious passage in that book and the Local Government issues a certificate, as we are contemplating, then the presumption would be that that particular passage is an objectionable passage. Sir, the order of proscription by the Madras Government was subject to the scrutiny of the Madras High Court. If the order stands, the presumption would be either that the Madras High Court did not set aside the order or that no one thought it worth his while to take the matter to the High Court to have the order set aside. Now, the order stands. If the order stands, the passage which the sub-inspector considers to be objectionable is brought to the notice of the Punjab Government. The Punjab Government may take the opinion of its legal advisers. It may come to the conclusion that it is not objectionable or it may come to the conclusion that it is objectionable. If it comes to the latter conclusion, it issues a certificate on the basis of which a prosecution can be launched. Where is room for any confusion? Where do these passages 10, 12 and 14 come in? The only passage which is material is the passage which was brought to the notice of the Punjab Government and which was embodied in a certificate. Then, Sir, I come to the last point of my learned friend, Mr. Anklesaria. He says: "Oh, the Government may have difficulty in proving knowledge, but you must honestly face it". In ordinary cases I would certainly accept that advice, but in this case knowledge is absolutely impossible of proof. You are prosecuting a man for repeating a seditious passage from a proscribed book. He was liable to prosecution for sedition, but you are not taking that protracted course of a regular trial under section 124A. You are taking the shorter course. For that shorter course you go to the Local Government for its opinion whether the passage is seditious or not. If you are forced to prove that the accused had knowledge of the notification declaring the book to be forfeited in most cases the prosecution would fail, because such proof is impossible. A man goes to a street corner and reads a seditious passage. How is anybody in the Government to know whether that man had knowledge of the fact of proscription or not. Therefore to require proof of this fact would really mean defeating every prosecution under this clause. It would be frustrating the object of the clause. When you are enacting any law, you must enact it in such a way that its wording does not frustrate its object. If you introduce the element of knowledge here, you will be frustrating the object of this clause. I concede that that would not have been a conclusive answer provided there were inherent risks in the clause, risks to which an ordinary innocent person might be exposed. I have shown that an ordinary citizen who repeats an innocent passage is not exposed to any risk. An ordinary citizen who repeats a seditious passage cannot claim immunity to the same extent and, therefore, in order to bring that man to justice who has repeated a seditious passage, you should not enact a law which would make prosecution futile. Sir, the amendment would render the clause futile. I oppose the amendment.

Mr. S. O. Mitra: I support the amendment of my friend, Mr. Anklesaria. I admit that there has been confusion of thought, but I am afraid the

learned Leader of the House might have intentionally tried to confuse the House. He says that whoever repeats a seditious passage only, comes under the purview of this clause. What is necessary for a conviction? What is required to be proved for conviction under this clause is the publication and the only other element necessary to be proved is that it is from a newspaper, book or other document which has been proscribed and where this passage occurs. Where does the Honourable the Leader of the House find that the person who committed the offence was repeating a seditious passage? It is the Government in their executive authority who styles it as a seditious passage. For the conviction of the person only two elements are necessary. It is publication and that it occurred in a proscribed newspaper or book or document. Then the Leader of the House was trying to confuse us by saying that because Government in their executive function said that it was seditious, so it must be taken for granted that the man was knowingly repeating a seditious passage. Here I join issue with him.

The Honourable Sir Brojendra Mitter: I did not say that.

Mr. S. O. Mitra: That is what I understood the Law Member to say.

The Honourable Sir Brojendra Mitter: I may not have expressed myself clearly.

Mr. S. O. Mitra: That is my misfortune. I find in this clause there is no necessity of proving that the passage is seditious. It is merely the publication and that the passage was quoted from a book which has been proscribed by Government are the only two facts that are to be proved. I shall be glad to be enlightened by the Honourable the Home Member when he makes a reply—whether in the Court there will be any necessity of proving that the passage was seditious beyond the fact that the sub-inspector found it to be seditious and the Government on that report accepted the passage as seditious. Very ingeniously the Law Member said that when the book itself was proscribed, there were provisions to move the High Court for annulling that proscription. The book was proscribed. It was in the interest of the author to make an appeal to get the order annulled. The offender, under the present clause, was not a party when the book was proscribed. Why should he take it upon himself to fight against the proscription and go to the High Court.

The Honourable Sir Brojendra Mitter: If Mr. Mitra will excuse me for a minute, I think he is not right in saying that it is only the author of the book who can go up to the High Court. Anybody who has got a copy of the book can go up to the High Court. Mr. Mitra will find that in the *Comrade* case, Mr. Muhammad Ali's case. He took the case to the High Court on the ground that he had a copy in his possession and that copy had been forfeited to His Majesty.

Mr. S. O. Mitra: That may be so, but our contention in this case is this. If a man committed any offence unwittingly, it is not expected of this gentleman, who is not even aware of that order of forfeiture or proscription, to go to the Court. There may be a right of

1 P.M.

[Mr. S. C. Mitra.]

anybody to fight against any orders of forfeiture. Sir, every day so many books, leaflets, documents and newspapers are being forfeited, and if it be the business of anybody to fight in each case then I think their hands will be too full. But our case is that the offender here under this clause, if he is not even aware of that forfeiture, should be in that case protected. So it is not a question of a man repeating a seditious passage.

Then, as regards the other point, I could not understand why, if an article is seditious, the man should not be prosecuted under the seditious section and why he should be denied trial by a judge and which is appealable in the regular way, and why this short cut to get the man convicted should be taken recourse to. That question has not been answered by only saying that it is a shorter route. There may be a shorter route, but it is liable to great abuse and to denial of justice to a man. As regards the question of *mens rea*, I think my Honourable friend, Mr. Anklesaria, argued it very lucidly and made it clear that there is that difference between the English and the Indian law that under the English law the guilty mind has to be proved, but in Indian Law unless the section specifically provides for *mens rea*, it is not a necessary element for conviction, but that is no argument why we should demand in this clause to include *mens rea* as a necessary element, and there is no reason why these words should not be added to prove the guilty mind of the offender. Sir, with these words, I support the motion of my friend, Mr. Anklesaria.

The Honourable Mr. H. G. Haig: Sir, I am not sure that it is really incumbent on me to say anything after the extremely exhaustive exposition of the law given by my Honourable colleague, the Law Member. The Honourable Members opposite have expressed their great admiration, which I share, for the speech of my Honourable friend, Mr. Anklesaria. It was learned, it was eloquent and it was long—three very commendable qualities in speeches on this debate. We have also been exhorted by my Honourable friend, Mr. Amar Nath Dutt, to be patient. He suggested that in enacting this clause the Government were showing some impatience. Well, I think, Sir, as to that charge, that while the members of Government have sat here day by day and listened to these elaborate debates on points, which I confess have often seemed to me small points, they cannot be accused of undue impatience. This particular point, though it has given rise to most elaborate legal argument, appears to me, to my untrained intelligence, to be a very simple one. The question is whether when a document has been proscribed and its proscription has been published in the Government gazette, it is reasonable to assume that a person who repeats passages from that document is aware that it has been proscribed. I submit that in the first place the document is a seditious document or it would not have been proscribed, and anyone who proposes to repeat a passage from such a document has got to exercise reasonable caution. There is no difficulty in satisfying himself whether in fact it has or has not been proscribed; and in fact, as Honourable Members are perfectly well aware, if this provision were inserted in the clause and it were necessary for the prosecution on every occasion to prove that the accused actually knew that the book had been proscribed, then they would be asking the prosecution to prove an impossibility. The clause would be made entirely ineffective. Sir, I oppose the amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in sub-clause (1) of clause 5 of the Bill, after the word 'force' the words 'knowing or having reason to believe that such copies have been so declared to be forfeited' be inserted."

The motion was negatived.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That clause 5 stand part of the Bill."

Sir Abdur Rahim (Calcutta and Suburbs: Non-Muhammadan Urban): Sir, I want to speak on the motion that clause 5 stand part of the Bill.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Yes.

Sir Abdur Rahim: Sir, I wish to oppose this motion. This is a typical clause and I wish to make it clear to the House what the real nature of the entire Bill is, from the wording and from the scope of this clause. Amendment after amendment has been moved and rejected. Sir, I think I am in order?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): If you restrict yourself to clause 5.

The Honourable Mr. H. G. Haig: Sir, on a point of order,—have we not already had a full debate on clause 5 as a whole? Is it in order that we should have a second debate on the clause as a whole?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): It is obvious that Honourable Members are entitled to express their views on every question that has to be put to the House and on which they have a right to vote. The Chair recognizes the force of the argument which the Honourable the Home Member has advanced, *vis.*, that that would lead to repetition. So far as possible, the Chair will take care that repetition does not take place. It has to be remembered that when a question has to be put to the House and it has to be voted upon, discussion on it must be held to be in order. The fact that the original amendment asking for the repeal of this clause was discussed and voted upon cannot take away the right to discuss why the clause should or should not be allowed to stand part of the Bill.

Sir Lancelot Graham (Secretary, Legislative Department): Sir, might it not be desirable in that case either to cut short the debate on the motion that the clause be omitted, or to treat that motion as a purely negative motion and disallow it, instead of having a debate on the same question twice over?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): That may be the fault of the Rules and Standing Orders or the practice which has prevailed. As a matter of fact there has hardly been any controversial piece of legislation before this Assembly since it was constituted during the discussion on which amendments for the omission of clauses have not been held to be perfectly in order and allowed to be discussed. (Applause.) This practice has prevailed all these years and the Chair has no intention of making any change in that procedure.

Sir Abdur Rahim: Sir, I do not propose to take up much of the time of the House. The amendments have been disposed of one after the other and we have now come, therefore, to the clause as it stands. I said that this is a typical clause and it really reveals the object with which it is to be enacted and this is the object throughout the entire Bill. Now, what I wish, first of all, to point out is that the clause purports to define the jurisdiction of the executive on the one hand and of the Court on the other. Let us see what is the jurisdiction of the executive as laid down in the clause. The jurisdiction of the executive is that it can declare any book, newspaper or a document to be objectionable and, therefore, to be proscribed. What happens afterwards, I am not concerned with as I am concerned with the scope of this clause. The man whose book or document or newspaper has been proscribed or any other person who takes an interest in the matter can refer the matter to the High Court. That is another matter. But it is the jurisdiction of the executive under this clause to pronounce upon the nature of the publication. Now, what is left to the Court under this clause? The Court has only to find that any passage from that book or newspaper or document has been recited or repeated in public. If that is found, that is quite enough for the Court and it must, therefore, convict the person who has repeated that passage. It does not pronounce, according to this clause, upon the character of the passage that is repeated. If the fact is proved that a man has recited a passage from a prohibited publication, he is guilty and is liable to be sent to jail. Now, supposing a newspaper, for instance, is proscribed. As Honourable Members know, a newspaper contains all sorts of matter. Some of it may be objectionable and, so far as it is objectionable, we must take it for granted that the pronouncement of the executive is conclusive as the law requires. But there are other passages in a newspaper which are not objectionable. Still, according to the interpretation that the Court is bound to put upon this clause, any passage, however innocent or laudable, cited from a proscribed newspaper, is liable to be brought under its operation and the man can be sentenced.

I do not want to repeat the arguments that have been addressed to this House as regards the question of *mens rea* or guilty knowledge or any element that ordinarily goes to constitute a crime, but I do challenge the statement of the Honourable the Law Member that the Indian Penal Code does not recognise the guilty mind as a necessary ingredient of an offence. There may be some particular cases, individual cases, in which that element need not be present, but throughout the Indian Penal Code surely that is the most important element. In almost every offence of any character it is necessary to find out whether there has been guilty knowledge or not. Malicious intention or unlawful object or some such element has to be found. I do not know how a clause like this came to be drafted. It simply means that the jurisdiction of the Court to pronounce upon the real guilt of a person is taken away and everything is left to the executive. The question is whether the House would accept a clause of this character.

The Honourable Mr. H. G. Haig: Sir, having been present throughout the debate on this clause, I think I am right in saying that all the points raised by the Honourable the Leader of the Independent Party have already been fully discussed and replied to and, therefore, I do not propose to give any further reply.

Mr. President: The question is:

"That clause 5 stand part of the Bill."

The Assembly divided:

AYES—54.

Abdul Hye, Khan Bahadur Abul
Hasnat Muhammad.
Acott, Mr. A. S. V.
Ahmad Nawaz Khan, Major Nawab.
Allah Baksh Khan Tiwana, Khan
Bahadur Malik.
Amir Hussain, Khan Bahadur Saiyid.
Anklesaria, Mr. N. N.
Bajpai, Mr. G. S.
Bhore, The Honourable Sir Joseph.
Bower, Mr. E. H. M.
Burt, Mr. B. C.
Dalal, Dr. R. D.
DeSouza, Dr. F. X.
Dudhoria, Mr. Nabakumar Sing.
Dunn, Mr. C. W.
Dutt, Mr. G. S.
Fazal Haq Piracha, Shaikh.
Fox, Mr. H. B.
Graham, Sir Lancelot.
Greenfield, Mr. H. C.
Gwynne, Mr. C. W.
Haig, The Honourable Mr. H. G.
Hezlett, Mr. J.
Hudson, Sir Leslie.
Ishwarsingji, Nawab Naharsingji.
Ismail Ali Khan, Kunwar Hajee.
James, Mr. F. E.
Jawahar Singh, Sardar Bahadur
Sardar.
Mackenzie, Mr. R. T. H.

Macqueen, Mr. P.
Meek, Dr. D. B.
Metcalf, Mr. H. A. F.
Mitter, The Honourable Sir
Brojendra.
Moore, Mr. Arthur.
Morgan, Mr. G.
Mukherjee, Rai Bahadur S. C.
Nayudu, Rao Bahadur B. V. Sri Hari
Rao.
Nihal Singh, Sardar.
Noyce, The Honourable Sir Frank.
Rafuddin Ahmad, Khan Bahadur
Maulvi.
Raghbir Singh, Kunwar.
Rajah, Rao Bahadur M. C.
Rau, Mr. P. R.
Ryan, Mr. T.
Sarma, Mr. R. S.
Schuster, The Honourable Sir
George.
Scott, Mr. J. Ramsay.
Sher Muhammad Khan Gakhar,
Captain.
Singh, Mr. Pradyumna Prashad.
Smith, Mr. R.
Sorley, Mr. H. T.
Tottenham, Mr. G. R. F.
Wajihuddin, Khan Bahadur Haji.
Yakub, Sir Muhammad.
Zulfiqar Ali Khan, Sir.

NOES—40.

Abdoola Haroon, Seth Haji.
Abdul Matin Chaudhury, Mr.
Abdur Rahim, Sir.
Azhar Ali, Mr. Muhammad.
Badi-uz-Zaman, Maulvi.
Chandi Mal Gola, Bhagat.
Chetty, Mr. R. K. Shanmukham.
Chinoy, Mr. Rahimtoola M.
Dutt, Mr. Amar Nath.
Gour, Sir Hari Singh.
Gunjal, Mr. N. R.
Ibrahim Ali Khan, Lt. Nawab
Muhammad.
Jera, Chaudhri.
Jadhav, Mr. B. V.
Jha, Pandit Ram Krishna.
Jog, Mr. S. G.
Lahiri Chaudhury, Mr. D. K.
Lalchand Navalrai, Mr.
Misra, Mr. B. N.
Mitra, Mr. S. C.

Mody, Mr. H. P.
Pandian, Mr. B. Rajaram.
Pandit, Rao Bahadur S. R.
Parma Nand, Bhai.
Patil, Rao Bahadur B. L.
Phookun, Mr. T. R.
Puri, Mr. Goswami M. R.
Ranga Iyer, Mr. C. S.
Rastogi, Mr. Badri Lal.
Reddi, Mr. P. G.
Reddi, Mr. T. N. Ramakrishna.
Sarda, Diwan Bahadur Harbilas.
Sen, Mr. S. C.
Sen, Pandit Satyendra Nath.
Singh, Kumar Gupteshwar Prasad.
Sitaramaraju, Mr. B.
Sohan Singh, Sardar.
Thampan, Mr. K. P.
Uppi Sahab Bahadur, Mr.
Ziauddin Ahmad, Dr.

The motion was adopted.

Clause 5 was added to the Bill.

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

The Assembly re-assembled after Lunch at Thirty-Five Minutes Past Two of the Clock, Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That clause 6 stand part of the Bill."

Mr. B. V. Jadhav: Sir, I beg to move:

"That clause 6 be omitted."

As originally drafted, clause 6 was to introduce an amendment in section 505 of the Indian Penal Code. There, in that section, in sub-section (b), the words "whereby any person may be induced to commit an offence against the State or against the public tranquillity" were to be omitted and in their place "or hatred or contempt towards any public servant or any class of His Majesty's subjects" were to be substituted. That was the original clause as proposed in the original draft of the Bill. In the Select Committee, every reference to the Indian Penal Code was dropped and, therefore, the clause, as is now before the House, was substituted for the original clause 6 of the Bill. The clause says:

"Whoever makes, publishes or circulates any statement, rumour or report which is false and which he has no reasonable ground to believe to be true, with intent to cause or which is likely to cause fear or alarm to the public or to any section of the public or hatred or contempt towards any class of public servants or any class of His Majesty's subjects shall be punished, etc., etc."

I want to point out that "any class of public servants or any class of His Majesty's subjects" do come under the expression "any section of the public" and, therefore, they are not required here. I congratulate the Home Member and the Law Member for dropping the protection granted to any public servant in the original draft—hatred or contempt towards any public servant—and they have now retained hatred or contempt towards any class of public servants. But I maintain that any class of His Majesty's subjects is not at all required here. This Ordinance Bill has been brought forward for the sake of affording protection to Government servants and the Bill, as returned from the Select Committee, provides protection to a class of public servants; but then there is no necessity of any class of His Majesty's subjects because any section of the public is protected by clear words and, therefore, any class of His Majesty's subjects is superfluous. I maintain that the original provision in the Indian Penal Code is quite sufficient for the protection of Government servants and everybody. Any statement, rumour or report which is prejudicial to them will bring the offender under the clutches of the law and he will be adequately punished under the Indian Penal Code and, therefore, there is no necessity for this new clause which is very stringent and brings in many confounding things. As I have just pointed out, there is no necessity for making any mention about any class of His Majesty's subjects, because His Majesty's subjects are generally protected by the Indian Penal Code. Some protection was required towards a class of public servants no doubt, because we have seen that in the non-co-operation movement certain services were singled out and contempt was shown towards them

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions: Muhammadan Rural): But you moved a similar amendment about that clause also—protection of some servants?

Mr. B. V. Jadhav: Therefore I maintain that the clause is very wide and does not deserve to be accepted by this House. At the same time I shall point out that the Bill, as originally drafted, was an amendment to the Indian Penal Code, and, therefore, the Exception to section 505 would have automatically applied to the new section; but here although some words have been imported in the body of the clause, I do hold that the Exception as given in section 505 of the Indian Penal Code is more liberal and, therefore, ought to have been introduced here. I, therefore, propose that clause 6 be omitted.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Amendment moved:

"That clause 6 of the Bill be omitted."

Kunwar Raghubir Singh (Agra Division: Non-Muhammadan Rural): Sir, I beg to oppose the amendment moved by Mr. Jadhav. I am surprised that he being a Member of the Bombay Government at one time should bring forward such an amendment as this, namely, to omit the whole clause which is really in the interests of Government.

Sir Muhammad Yakub: He is not a Member of the Government now.

Kunwar Raghubir Singh: I was recently reading a book called *Storia Do Mogor* by Manucci. There I found how Prince Aurangzebe spread false rumours to prejudice the cause of Prince Dara. Therefore, it is the duty of every wise Government to see that false rumours are not circulated in the country. As a Government, the Government of India have taken a very right step in inserting this clause, because false rumours play a great havoc in the present political condition of the country. For instance, a rumour was spread the other day that Mahatma Gandhi was out of prison. So every civil disobedience man took advantage of it to show mysterious powers of the Mahatma and the rumour was so widespread that everybody, even in remote villages, began to speak of it. Therefore, it is very necessary that this clause should be retained. I am against the entire omission of the clause, and, therefore, I oppose the amendment of my Honourable friend, Mr. Jadhav.

Mr. Amar Nath Dutt: I am sorry, Sir, that my friend from the Agra Division has not been able to find himself in agreement with the Honourable the Mover of the amendment. Probably he thinks more for the Magistrates and Collectors than Mr. Jadhav, a former Minister of the Government of Bombay.

Mr. B. V. Jadhav: Still he was an elected Member.

Mr. Amar Nath Dutt: Be that as it may, I submit that the clause which the Government desire to insert in the Bill is not needed for the purposes for which it has been introduced, namely, to combat the civil disobedience movement. They want to protect Government servants from certain things, and those are: "things likely to cause fear or alarm". I

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submit that fear or alarm which does not induce anybody to break the law or commit an offence should not have found a place in this Bill, in fact that principle is to be found in section 505 of the Indian Penal Code, where we have in clause (b) "with intent to cause or which is likely to cause fear or alarm to a public or to any section of the public whereby any person may be induced to commit an offence against the State or against public tranquillity". Certainly, nobody would quarrel if you have a provision like this in this Bill, and I think what my friend from Aligarh meant was that such protection ought to be given, and I think my friend, Mr. Jadhav, will not deny that such protection should be given. But to give protection to the extent that is contemplated here is something very wide and is not needed for combating the civil disobedience movement. In the first place, I think that Government officers ought to have some stamina in them to withstand public criticism or even unjust contempt which others may feel when discharging their public duties. To deal with the masses of the people is a very difficult thing, and I think many of the Government officers will bear me out when I say that a kind word or kindly treatment will capture the imagination as well as the affection of the people over whom these officers rule, while the people will not dare express their contempt or hatred for the unjust and tyrannical acts which these officers are prone to commit at times in their official capacity. I submit that to take away the Government officers who have to administer the law in the mufassil from the light of criticism is not the right thing to do, because every criticism made against an officer may be said to bring him to contempt or hatred, in fact in these days if the Honourable the Home Member would care to acquaint himself with the conditions in the mufassil and see how these officers are behaving with the people, he will at once see that their behaviour cannot but evoke contempt and hatred for that class of people who administer the law at the present moment. You cannot expect that the whole people will be above all such feelings of hatred or contempt for the wrong doers, and especially when these wrong doers happen to possess unlimited powers. Beginning from a small pin prick to the hang rope of the executioner, you have everything in your power. The law gives you certain powers to inflict punishment on the people, but besides this you exercise more powers than is contemplated by the law. If the Government officers are law-abiding, if they had that amount of respect for law which people outside that sacred ring have, I think there would have been less room for enacting a clause like this. You cannot kill hatred and contempt for an individual of that type. So long as human nature continues to be what it is, one is bound to hate men who do things for which hatred is the least thing that can be expressed.

Then, as regards contempt, I submit that if their conduct is such, which is not contemptible, I think no amount of contempt can affect them. If they act in a contemptible manner,—and I do say that they often act in a contemptible manner,—then there is nothing wrong in criticising the actions of such officers. Here is one instance in which you are acting in a contemptible manner. You are flouting the opinion of the public; you are flouting

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member should address the Chair.

Mr. Amar Nath Dutt: Sir, I beg to be excused. Sir, they are flouting public opinion; they are not paying any heed whatsoever to the views expressed by the representatives of the people here, and need I say that it evokes both hatred and contempt in us for that? Instances like these ought to be avoided as far as possible in order to have good relationship between the Government and the people. You have witnessed from day to day how the Government servants here have treated all our appeals to them with respect to this piece of legislation, and if we demand of our servants, as they glorify to call themselves though really they are our masters, if we expect our servants to act according to our wishes, nay orders, and if they do not act up to our wishes and orders, then we would have at once dismissed them if we had that power. They are arming themselves with more powers with a view to keeping themselves tight to their seats so that nobody can disturb them. That being their position, they should not deny us the little human feeling of hatred and contempt which their conduct must evoke in us. Sir, I may say that I am not addressing them personally, because I know every one of them is an estimable gentleman,—my Honourable friend, Mr. Dutt, as well as my Honourable friend the Home Member. But the system they represent is a vicious one, and so long as they are in that system, their conduct inspires nothing but hatred and contempt. That being so, I support the deletion of this clause.

The Honourable Mr. H. G. Haig: As the House will have observed, this clause is proposed as a substitute for clause (b) of section 505 of the Indian Penal Code. The first difference from clause (b) of section 505 of the Indian Penal Code is that the words "whereby any person may be induced to commit an offence against the State or against the public tranquillity" are omitted. In other words, when the rumour is false and is likely to cause fear or alarm to the public, it is proposed that that in itself should be an offence and that it should not be necessary further to establish the very difficult proposition that the spreading of that rumour is likely to induce a person to commit a definite offence against the State. We all know that in this country the spreading of rumours, particularly false rumours, is a very easy matter and that it is apt to have a deplorable effect on the countryside in creating a general state of unrest. It is the easiest thing in the world to spread a rumour—they are after all to a large extent illiterate people, and consequently credulous people—a rumour that the Government are either going to take some perfectly unjustifiable and ridiculous action, or that the Government are being overthrown, or that there has been a mutiny of troops, or whatever it may be. Those rumours in themselves are most pernicious, and it is the intention of this clause that deliberate spreading of false rumours of that kind should be prohibited. The second point is that we have also prohibited the spreading of false rumours which are likely to cause hatred or contempt towards any class of public servants or any class of His Majesty's subjects. My Honourable friend, Mr. Amar Nath Dutt, seemed to think that by making that provision we were interfering with what he regarded as his inalienable right as a man to indulge in the human feelings of hatred and contempt towards Government servants. I should be the last person to attempt to deprive my Honourable friend of that satisfaction, and I would point out to him that this clause in no way interferes with any degree of hatred or contempt that he may feel towards these Benches. The only thing with which it interferes is the spreading of definitely false reports

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about us which are likely to cause those feelings. Sir, I oppose the amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question which I have now to put is:

"That clause 6 of the Bill be omitted."

The motion was negatived.

Mr. B. C. Sen (Bengal National Chamber of Commerce: Indian Commerce): I move:

"That in sub-clause (1) of clause 6 of the Bill, the words 'or which is likely to cause' be omitted."

The clause is wide enough and I do not know what mischief it will cause, but these words "or which is likely to cause" further extend the mischief of this clause. The clause says:

3 P.M. "with intent to cause or which is likely to cause fear or alarm to the public or to any section of the public."

That is in very wide terms. Any two persons may come forward and say that they have been alarmed, that alarm has been caused to them. It is not very difficult to do so in these days. So, I do not think that the operation of this clause should be further extended by the use of the words "or which is likely to cause". As a matter of fact, the phrase "with intent to cause" may, in legal phraseology, be said to include "likely to cause", because a man's intention cannot be found either by stethoscopic examination or by X-ray examination. The intention is gathered from the reasonable or probable effect. So, in practice, the words "which is likely to cause" are included in the words "with intent to cause". There may be some difficulty in interpreting the words "or which is likely to cause", and, in my opinion, it will further extend the operation of this clause. I move my amendment.

The Honourable Sir Brojendra Mitter: Two objections have been taken by Mr. Sen to the clause. One is that the word "public" is too wide, and secondly, that the expression "with intent to cause" includes "likely to cause". My short answer is this. We are doing nothing new. It is already in section 505 (b). Section 505 (b) says:

"with intent to cause or which is likely to cause fear or alarm to the public or to any section of the public."

So, these are not new words. They are already in the Indian Penal Code, and no reason has been assigned why the Penal Code should be altered by the omission of these words.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question which I have now to put is:

"That in sub-clause (1) of clause 6 of the Bill, the words 'or which is likely to cause' be omitted."

The motion was negatived.

Mr. B. V. Jadhav: I move:

"That in sub-clause (1) of clause 6 of the Bill, for the words 'one year' the words 'three months' be substituted."

It might be pointed out from the Government side that in section 505 of the Indian Penal Code the punishment that is provided extends to two years and Government have been merciful enough to reduce it to one year. But I may point out that the offences under section 505 are very serious and heinous. Section 505 (a) runs thus:

"... with intent to cause, or which is likely to cause, any officer, soldier, sailor or airman in the Army, Navy or Air Force of Her Majesty or in the Royal Indian Marine or in the Imperial Service Troops to mutiny or otherwise disregard or fail in his duty as such."

It is a very heinous crime and, therefore, the punishment of two years that is provided in section 505 is all right; but in the present clause the offences that are made punishable are not so very serious and, therefore, the argument that in the original clause two years punishment was provided does not apply. Then sub-clause (b):

"with intent to cause or which is likely to cause fear or alarm to the public or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquillity."

That is also a very serious crime and, therefore, the punishment of two years is justifiable, but the acts that are made offences under the new clause are not so very heinous and, therefore, such a punishment as that extending to one year is unnecessary. At the same time, I may point out that in clause 4, which has been adopted by this House, the punishment is only three months and clause 4 is a very important clause as has been urged from the Government side. It provides against boycott of Government servants. The boycott is a great inconvenience to Government servants no doubt and if, for that offence, three months are sufficient, then I submit that the offence brought under the purview of this clause should also be punished with three months. Therefore, I move the amendment.

Mr. Lalchand Navalrat: I support this amendment. It is admitted that this clause has been widened and made more elastic than section 505, Indian Penal Code. To provide one year's punishment in the first instance is, I think, too much. I know that it is a maximum punishment, but I think, if not reduced by the Act, it will induce Magistrates to give greater punishment. I, therefore, support the amendment.

The Honourable Mr. H. G. Haig: My Honourable friend, Mr. Jadhav, rightly anticipated my line of reply to his argument by pointing out that under section 505 of the Indian Penal Code, a maximum penalty of two years is provided. I concede his contention that some of the offences under section 505 of the Indian Penal Code are more serious than the offence aimed at in this clause, but that point is very fully met by the fact that under section 505, the maximum period of imprisonment is two years, while we are providing merely for a maximum of one year. The period is that which the Select Committee recommended and I think in this matter it is safe to stand on their conclusion. Sir, I oppose the amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in sub-clause (1) of clause 6 of the Bill, for the words 'one year' the words 'three months' be substituted."

The motion was negatived.

Mr. B. V. Jadhav: I move:

"That in sub-clause (1) of clause 6 of the Bill, for the words 'one year' the words 'six months' be substituted."

I need not repeat the argument I advanced at the time of moving the first amendment, but I would point out that if the Honourable the Home Member found three months too low, he may be induced to accept the period of six months proposed by this amendment.

Mr. Lalchand Navalrai: For the same reasons I support it.

Rao Bahadur B. L. Patil (Bombay Southern Division: Non-Muhammadan Rural): Sir, we ought to make a distinction between section 505 of the Indian Penal Code and the new clause now under discussion. The offences mentioned in section 505 of the Penal Code are certainly more serious and, if you look to the present clause, you will see that the offences are rather imaginary or sentimental in their nature. If you compare the present clause with the provisions of sub-clause (b) of section 505 of the Penal Code, you will realise the difference. Then, with regard to the punishment, there it was meant to be deterrent looking at the nature of the offence, but here the object is to fight the civil disobedience movement and not to cause a permanent impression upon the people of this country. I advance this argument, because the wording of the present clause is likely to include opinions honestly expressed. It is very difficult in many cases to distinguish between opinions honestly expressed and rumours. Much depends upon the view one takes. The officials might call a statement false, but at the same time one may contend that it is true. Sometimes it is very difficult to know the exact facts. The newspapers generally supply information to the reading public, on the information they get; sometimes it is contradicted. But sometimes the contradiction itself is found to be false. Under these circumstances, it is very difficult to know which is true and which is false as it is difficult to distinguish between a false rumour and an opinion honestly expressed. I beg to suggest that it would be proper for the Government to accept this modest amendment which has been so pitifully moved by Mr. Jadhav.

The Honourable Mr. H. G. Haig: My reply to the previous amendment was a general one and, therefore, covers the arguments which have been advanced with reference to this amendment and I do not think it is necessary to repeat them. But with reference to what has just fallen from my Honourable friend, Rao Bahadur Patil, regarding the relativity of truth, I would remind him that it is a common duty of a Court to determine whether a thing is false or true, and we shall not be putting on the Courts any greater obligation than that ordinary and common one.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in sub-clause (1) of clause 6 of the Bill, for the words 'one year' the words 'six months' be substituted."

The motion was negatived.

Mr. Lalchand Navalrai: Sir, I move:

"That to sub-clause (1) of clause 6 of the Bill, the following proviso be added:

'Provided that no Court shall take cognisance of an offence punishable under this section unless upon complaint made by order or under authority from the Local Government or some officer empowered by the Government in this behalf'."

Sir, it may be said that I am hoping against hope. But I do not think that that will be the mentality. I hope consideration will be given to my amendment because in this new clause new offences are created, and, under section 505, I. P. C., there is a difference. Under that section, it is not mere circulation, but some overt act has to be proved to have been done, whereas in this case mere giving fear makes out the offence. Therefore, it is very necessary for the Government to consider that there ought to be some precaution. I am not taking out the power from the hands of the Government. What I ask for is a precaution of an executive nature. Some precaution there ought to be and with that view I move my amendment.

Mr. S. G. Jog: Sir, the other day when a similar amendment was moved by my esteemed friend, Sir Muhammad Yakub, he charged this side of the House with inconsistency or rather with blowing hot and cold in the same breath. It was pointed out by my esteemed friend that when the Local Government's or any other responsible officer's sanction was given, that practically amounted to a mandate to the Magistrate and that the only thing then left to the latter was to pass a sentence. It was pointed out that there should be precaution, particularly when new offences were created, as then they were likely to work more mischief, by creating a handle for starting prosecutions under this clause. Sir, it is no doubt true that the politicians, as well as the occupants of the Treasury Benches, have on occasions to be exposed to the charge of inconsistency by blowing hot and cold in the same breath, but in view of the very vagueness of this offence and in view of the fact that a new offence is being created, I think we should have some sort of precautionary measure or, to use a technical phrase, a sort of safeguard, and, therefore, I think we should support my friend, Mr. Lalchand Navalrai's amendment which will much minimise the rigour of the clause. Sir, I heartily support the motion.

Mr. B. V. Jadhav: Sir, I rise to support the amendment moved by my friend, Mr. Lalchand Navalrai. The proviso which the Mover of the amendment wishes to be inserted does form part of clause 4 and, on the same analogy, it might be said that this should be necessary also with regard to this clause 6. Therefore, Sir, I support the motion.

The Honourable Mr. H. G. Haig: Sir, my Honourable friend, Mr. Lalchand Navalrai, in moving his amendment, said that he was hoping against hope. It was I think a very small hope that he had,—that in this matter he might prevail on us to accept his amendment, and, therefore, I feel, Sir, that I am not being very brutal in extinguishing that very little hope. The Honourable Member himself provided the answer to his own argument. He pointed out that under section 505 of the Indian Penal Code there is no such procedure, and the various offences under

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section 505 are very closely analogous to the offences under this clause. It would be, in my opinion, quite wrong to have a different procedure in this clause from the procedure already in force for section 505. Sir, I oppose.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That to sub-clause (1) of clause 6 of the Bill, the following proviso be added:

"Provided that no Court shall take cognisance of an offence punishable under this section unless upon complaint made by order or under authority from the Local Government or some officer empowered by the Government in this behalf."

The motion was negatived.

Clause 6 was added to the Bill.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That clause 7 stand part of the Bill."

Mr. B. V. Jadhav: Sir, I move:

"That clause 7 of the Bill be omitted."

The marginal note to this clause is "Molesting a person to prejudice of employment or business". Technically, it may be said that this clause is aimed against picketing. This is an Ordinance-made offence. Before the Ordinances were passed, the act of picketing was not punishable at all, and it is the right of every subject of His Majesty to be allowed to make use of this common right. Now, a man might meet a friend and both of them might stand and talk together. In that way they may cause some slight obstruction to others, but if that obstruction is not intentional and if the other persons had a right way to some other place to move on, then I think loitering there would not be an offence at all. But, under the present Ordinance rules, this picketing has been made penal and severe penalties are provided in this new Bill also. The Bill says:

"Whoever, with intent to cause any person to abstain from doing or to do any act which such person has a right to do or to abstain from doing, obstructs or uses violence to or intimidates . . ."

Of course using violence or intimidation is generally penal and must be punished. We have nothing to say against actual obstruction or the use of violence. We cannot defend it. But, at the same time, we have to see that the right of picketing ought to be respected if it is non-violent and at the same time if it is not against the expressed desire of the person whose shop or house is picketed. Sir, the clause is an objectionable one, so much so that my esteemed friend from Guzerat, Mr. Anklesaria, also has tabled an amendment and it will be realised, therefore, that it must be a really objectionable clause. Then:

"with intent to cause any person to abstain from doing or to do any act which such person has a right to do or to abstain from doing, obstructs or uses violence to or intimidates such person or any member of his family or person in his employ . . ."

Thus the protection that is afforded is not only to the owner of the shop, but it extends to "any member of his family or person in his employ". So the protection is very much spread out and it is rather indefinite, because it will be difficult to say who is or is not a person in his employ and whether that person was picketed because he was the employee of a particular individual, and so on. So, it is rather an indefinite provision and it ought not to be there:

"where such person or member or employed person resides or works or carries on business".

Therefore, the protection which is extended is not only available to authorised persons, but it refers also to various places. A person may have a place of business in one place and if the picketing is carried on there, it is made penal. That person may have a place of residence in another place and his servant may have his place of residence in a third place. The protection under this clause is spread over so many places that it is really difficult for one to say where a pedestrian will be safe; whether he will not come under the clutches of the law for picketing a particular individual or a member of his family or an employee of his at his place of business or at his place of residence or at the place of residence of a servant, and so on. It is so very indefinite and so very extensive that it will be very difficult for an honest man to even move out of his house and to go for his business. Then, Sir, that is not all. The clause goes on to say:

"or happens to be, or persistently follows him from place to place,"

He may not be at his place of business; he may not be at his place of residence; but wherever that person or the servant or the member of his family happens to be. If he is in a theatre or a cinema house and if some other person is also there, then perhaps the first person may object that he is followed by him wherever he goes and, therefore, he may seek to bring him under the clutches of the law. Then, Sir, that too is not enough, but in sub-clause (b) it is said:

"loiters or does any similar act at or near the place."

People do not walk at the rate of four or five miles an hour, but sometimes they go very slow and if they are going very slow in front of a shop, then perhaps a policeman may go to him and pounce upon him and say: "You are loitering here; come along with me; the offence is made cognizable. I shall prosecute you". The indefiniteness and the harmfulness of the clause are apparent. Sub-clause (b) further goes on to say:

"where a person carries on business, in such a way and with intent that any person may thereby be deterred from entering or approaching or dealing at such place."

Then there is an *Explanation* which runs thus:

"Encouragement of indigenous industries or advocacy of temperance, without the commission of any of the acts prohibited by this section is not an offence under this section."

It might be argued on behalf of Government that this *Explanation* has been inserted there in order to provide that propaganda for Swadeshi could be carried on with impunity. But, then, the condition is put in:

"without the commission of any of the acts prohibited by this section."

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And the acts prohibited by this clause are so very wide that it will be quite impossible to exempt any person or any action under it and, therefore, the operation of this clause will be to the effect of stifling any Swadeshi propaganda or any propaganda against drink. So, Sir, I move that the whole clause be deleted.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Amendment moved:

"That clause 7 of the Bill be omitted."

Diwan Bahadur Harbilas Sarda (Ajmer-Merwara: General): Sir, the motion under discussion is No. 106 on the list. 105 amendments have been proposed and all have been rejected and there is not the ghost of a chance for this motion to survive the slaughter of the innocents. If I, therefore, support this motion, it is to record my protest against the enactment of clause 7 in its present form in this Bill.

Sir, I have nothing to say to Government making it an offence for people to use obstruction or violence in order to prevent Government servants and others from doing their duty or what they are paid to do or when they are anxious to do what is profitable to them. My complaint is that the provisions of this clause are all-embracing. What surprises me is that those who are responsible for this unhappy piece of legislation—unhappy not because it is to protect Government servants or others from harassment and trouble, unhappy not because it takes certain steps to save innocent people from unwittingly committing certain acts which Government have made penal, but unhappy because in their zeal to crush the civil disobedience movement, the framers of this clause have lost their sense of proportion, perspective, and even the power to connect cause with effect and have presented to this House a draft which makes a man liable to be prosecuted, no matter what he does or omits to do. I am sure that the Honourable Sir Brojendra Mitter is not responsible for it, his sincerity of purpose is well known; not even Sir Lancelot Graham whose sturdy common sense is appreciated by all.

Sir, speaking on this Bill on the 27th September last when it was placed for consideration before the Legislative Assembly in Simla, I made the following remarks in connection with clause 7:

"This provision too is equally too comprehensive, and unless it is modified or the intention of Government is translated by words into restricting it to certain political matters, the clause, as it stands, will cover the case of a man interested in and working for social reform. A person, 70 years old, is entitled to, and has a right to, marry, under the law, a girl 14 years and 3 days old. If a social reformer or anybody, who takes interest in purifying society, tries to dissuade that man from following that course, and if he loiters or stands in front of the door of that man's house, under this law he can be prosecuted, for there is nothing to show that . . ."

The Honourable Sir Brojendra Mitter: Sir, I rise on a point of order. Is the Honourable Member entitled to quote the authority of his own speech?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order: The point of order is that the Honourable Member is reading his own speech made in this House.

Diwan Bahadur Harbilas Sarda: I am trying to show that this Bill, before it went to the Select Committee, was open to certain objections and, though Government have had time to reconsider their decision to make it shorn of all its defects, still the thing remains where it was. Then I want to show why Government have done this. The reason why I am quoting from my speech is to show that Government have done nothing to remove the defects of the Bill.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Apart from the point of order, the Chair should like to suggest to the Honourable Member (Diwan Bahadur Harbilas Sarda) that it would be more effective if he were to give expression to those views again in his own words instead of reading them out from previous records.

Diwan Bahadur Harbilas Sarda: I will accept your suggestion, but I thought I was perfectly within my rights to show how Government were behaving in this matter, and, in order to show that, I was quoting certain words from my speech. If, however, as you suggest, it is better that I should raise the same objection while discussing now this thing, I will take that opportunity. It appears to me that Government, after the discussion was over in the Assembly in September, became aware of the shortcomings of their handiwork and saw the force of the criticisms directed against this measure by Members on this side of the House and by me particularly on clauses 2 and 7. But whether it was their fear of loss of prestige, or whether they thought that, constituted as this House at present was, they were able to carry the most defective and reactionary measure without any difficulty

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Chair is very reluctant to interrupt the Honourable Member, but from the Honourable Member's observations the impression produced is that he is making a speech on the third reading. At present we are dealing only with clause 7. The Honourable Member appears to be dealing with the whole Bill and the attitude of Government in regard to it. That would be perfectly relevant on the occasion of the third reading, but at present the Honourable Member will please restrict himself to the provisions of clause 7 and give his reasons in full why he is opposed to the retention of the clause in the Bill.

Diwan Bahadur Harbilas Sarda: I am confining myself entirely to clause 7. All the remarks that I am now making are confined only to clause 7. If they indirectly apply to other clauses, I am not to blame for it, but the gentlemen who sit on the opposite Benches. I am confining myself entirely to the defects which are inherent in the language in which they have framed this clause and I do not want to go an inch beyond clause 7.

I was only saying just now that I criticised clause 7 of this Bill in Simla, but notwithstanding the opportunity that was given to them they have not amended this clause 7 and my speech should be taken to be strictly limited to clause 7. I have nothing to do with any other clause of the Bill. Whether it was the matter of prestige or whether they thought that in this Assembly they could carry anything they liked, they have not agreed to modify this clause so that it may be shorn of those defects which make it unacceptable to all reasonable men save those who are under a

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mandate to support it or who have surrendered their judgment to the safe or the unsafe keeping of the gentlemen who adorn the Treasury Benches. Sir, if they did not agree to modify the frame of this Bill, they have tried to explain away the criticisms that were directed against it and they have added an *Explanation* to this clause 7. But that *Explanation* is not only superfluous, but, to use the mildest of words, meaningless. The *Explanation* reads thus:

"Encouragement of indigenous industries or advocacy of temperance without the commission of any of the acts prohibited by this section is not an offence under this section."

Who in the world ever supposed or contended that if a man did not break any of the provisions of this clause he would be guilty under this clause? Does any man, with a grain of sense in him, contend or assert or allege that if a man does not break the provisions of a law, if he does not do anything which a particular section of law prohibits him from doing, he will be guilty under that law? I fail to understand the meaning of this *Explanation* which they have added to this clause.

Sir, I would ask the Honourable the Home Member, or rather I would ask the Honourable Mr. Haig for whose sense of justice I have great respect, seriously to consider whether, if it is not his intention to expose workers in the cause of social, educational or economic reform to harassment and trouble, it is not up to him to modify this clause so that those who work for social reform or educational reform or economic reform shall be excluded from the purview of this clause as long as they do not use any violence to anybody and pursue their avocations peacefully.

It is very difficult for any one not initiated into the mysteries of statecraft to understand the principle underlying this clause which makes it penal for a man to do something to another man which the other man may not even dislike and about which he has no cause of complaint.

Another extraordinary feature of this clause is that under this clause a person to whom anything is done has no right to complain. A loiters before the door of B; B finds no cause to complain against A and he does not complain or object to A's act. But a third party, viz., the police, comes in and files a complaint and the man is punished. The matter is between two men, none of whom has complained, but a third party comes and complains that the man has committed an offence. This is the most extraordinary feature of this piece of legislation so far as this clause is concerned. Shall I take it that the framers of this clause have inadvertently or unwittingly betrayed their real objective by inserting this clause which clearly shows that their sole purpose is not to crush the civil disobedience movement, but to control the entire activities of men, whether political, moral, social, economic or religious?

Sir, the clause, if we ignore the other alternatives and take only one alternative reads thus:

"Whoever with intent to cause any person to abstain from doing or to do any act which such person has a right to do or to abstain from doing, loiters at or near a place where such person resides or happens to be shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both."

You will see the absurdity and the ridiculousness of this provision if you consider one or two illustrations which I will give you to illustrate the purview of this clause. A man has a right to fast for one hundred days: he has a perfect right to do so; if a man goes to him or loiters near his house to dissuade him by entreaties from doing so, he is liable to be prosecuted under this clause. A person has a right under the Hindu customary law to marry two wives or more. If a brother of his first wife loiters near his house to entreat him not to marry a second wife and make the life of the first wife miserable, and he only wants by entreaties to dissuade him from carrying out his intention, that man is liable to be prosecuted. Take the third case as I said—a person has the right to take a leap from one side of a well to the other—he has a perfect right to do so and he has made his intention known; and if a man goes to him or loiters outside the door of his house with the intention of dissuading him from attempting the leap as it might endanger his life, that man is liable to be prosecuted though the person he wants to save does not complain of the advice given him; but under this clause, as it is framed, the police have a right to challan that man and he is liable to be punished. The fourth instance which I gave last Session is the case of a man of 70 years who wishes to marry a girl of 14 years one day, which under the law he has a right to do, and if a man goes, and stands outside his house and wishes to dissuade him from doing so, he is liable to be punished. It is no argument to say that Government would not be so foolish as to prosecute such people as I have enumerated. The point at issue is not whether Government will do this or will not do this. The point at issue is whether under the clause, as it is framed at present, a man is liable to be so prosecuted, particularly when we consider that the nature of the act, the intention of the person doing it, and even the fact that it is not displeasing to the person against whom the act is done, is of no consideration so far as this clause is concerned.

If the clause had been so framed as to make it penal for a person to prevent people from carrying on their trade or following their profession, or do anything to interfere with a person who wants to do something which is profitable to him, or if he is compelled to do something which is unprofitable or which he does not like to do, I could understand and I could appreciate Government's desire to enact the clause. But when Government ask us to help them to enact a clause which makes it an offence for us to do what we have every right to do and what, in certain circumstances, are ordinary duties to our fellowmen, and ordinary laws of morality, ordinary common sense imposes upon us the duty of doing, we are compelled to say "no" and reject the demand.

Mr. H. T. Sorley (Bombay: Nominated Official): Mr. President, I oppose this amendment. We have now come to clause 7 of the draft Bill. Clauses 7 and 13 are the two most important clauses of the Bill and it is absolutely necessary that clause 7 should be put on the Statute-book in something more or less like its present form. I am going to give reasons which I hope will convince this House why this course ought to be followed. The civil disobedience movement has discovered a new technique of law-breaking for which the Criminal Law, as it stands on the Statute-book today, is quite ineffective and this technique consists of two parts: the first is a mass campaign of certain specified offences by crowds, and the second part is an instigation of these crowds by juntas, cabals, or caucuses, call them by what name you like, which exist for the very

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purpose of instigating disobedience to the law. These juntas go by the name of Congress Working Committees and they have been declared illegal in many parts of the country. Now the effect of this law breaking is the intimidation of individuals which has resulted in a tyranny, a very gross tyranny, which must be stopped and which it is the duty of the State to stop. Now, the law breaking is of two kinds: first, it is committed by crowds as such; secondly, it is committed by numbers of individuals acting as agents together for this purpose. The first type of law breaking is mass law breaking and usually takes the form of various kinds of unlawful assemblies. The second kind of law breaking is what we call vaguely and unscientifically picketing. I shall, in the course of the next few minutes, try to draw a distinction between what picketing means in theory and what it has actually meant in practice. And I wish to explain my point of view by particular reference to examples of picketing in the Bombay Presidency. I had many excellent opportunities of seeing the course of the civil disobedience movement in the Bombay Presidency not only in the Bombay City, but in seven districts of the Presidency at various dates during 1930, 1931 and 1932; and I am talking from full knowledge and with full responsibility for what I say. The one cardinal fact in respect of the kinds of law breaking typified by picketing is the inadequacy of the law relating to criminal intimidation and the discovery that has been made by the organisers of the civil disobedience movement of this. They have discovered that it is just as easy to injure a man, to annoy a man, to intimidate a man and terrify a man by merely following him about in the street or by lying in front of his door as it is by hitting him on the head. And there is this great difference between following a man about in the street and hitting him on the head, that whereas the law provides a perfectly adequate remedy against persons who hit others on the head, it is very weak and vacillating when it is dealing with persons who follow others about in the street or lie in front of other people's doors. The definition of criminal intimidation is given in section 503 of the Indian Penal Code thus:

"Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation."

Now, the plain fact of the matter is that this definition of criminal intimidation does not cover many acts of intimidation which have been found most effective during the civil disobedience movement and have been admitted by this House to be objectionable and requiring suppression. I do not want to discuss the inadequacies of section 503 in detail, because I wish to proceed to more important matters, but I just want to say this now, that the great weakness in section 503 lies in the meaning which Courts have attached to the term "threatens". The word "threatens", as interpreted by the Courts, does not cover very many actions which are in the nature of threats and have the same effect as threats, and as long ago as, I think, about 1888, it was held in the Courts that advising persons not to deal with others did not constitute criminal intimidation, and it was held in other cases that threats of ex-communication and social boycott did not come within the scope of section 503. As the civil disobedience movement has been largely built up on this defect in section 503, it is perfectly obvious that the law in this respect is inadequate.

The existing law is inadequate because, as I have said, the definition of criminal intimidation is not sufficient. It does not cover intimidation of the nature which is now provided for in clause 7 of this Bill. Clause 7 of this Bill is properly to be regarded as an extension of section 503 of the Indian Penal Code and as a supplement to it. The second reason why the law relating to intimidation has been insufficient for the civil disobedience movement is that even in cases where a sufficient legal remedy is available under the law, it cannot be applied, because crowds or a number of individuals act together as aggressors and the individual aggrieved is afraid to complain, and the third reason, why the law relating to intimidation is inadequate, is that it fails at present to provide a short, sharp, simple remedy which will penalise directly the various actions that take place without it being necessary for the State to establish that certain very definite actions have occurred which would bring the law within the various provisions of the Indian Penal Code.

I come now to discuss for a few moments the general nature of picketing.

Picketing, as I understand it, means something like this. It

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means that one or two or more individuals, who do not agree with a person, go to visit him or stand over him in order to try to persuade him to change his view, to do something that he would not otherwise wish to do. In other words, picketing is a form of persuasion to be carried out by argument, with logic and with reasonableness. Now, there is nothing objectionable in that, but the point is that when one man is going to be persuaded by several persons, it is a question of fact exactly where persuasion ceases to be unobjectionable and becomes objectionable, and it seems to me perfectly clear that the persuasion becomes objectionable when any question of force, or compulsion or intimidation or annoyance enters in the circumstances, and it is precisely my criticism of picketing as carried out by the Congress organisation during the civil disobedience campaign that it has always gone beyond this limit. It has passed beyond reasonable limits, it has passed from the bounds of the unobjectionable, it has crossed that barrier and become definitely objectionable, and in this view I am fortified by the admission made by the Congress itself at the time of the Gandhi-Irwin Pact. In the Lord Irwin-Mr. Gandhi Pact, signed by the Congress on the 5th March, 1931, it was said that "such picketing (that is in furtherance of boycott of intoxicating drugs and drinks and of all foreign cloth and liquor shops) should be unaggressive and should not involve coercion, intimidation or restraint, hostile demonstrations, obstructions to the public or any offence under the law. If these conditions are satisfied in any area, picketing is to be suspended there". I think that is a complete admission on the part of the Congress that the picketing, as carried out up to the 5th of March, 1931, did overstep these bounds, and the question which I wish to put to the House now is, when we consider the kind of organisation which the Congress has employed in order to paralyse the State and the authorities responsible for law and order, and when, in consequence of the policy laid down, they engage large numbers of agents to stand over, watch and beset, to use the English phrase, in order to get those with whom they disagree to change their views, when we remember that the Congress itself is avowedly out to paralyse the State and to change the system of Government by unlawful means, can we for a moment suppose that picketing of that kind can ever be peaceful, that there will ever be absent from it some element of intimidation or terror or annoyance to the persons whom they wish to persuade and with whose views they are in disagreement? I suggest, Sir,

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that it is quite absurd to think that Congress picketing, as we understand it, can be anything else than unpeaceful and violent.

I wish now to refer to some typical instances of picketing in the Bombay Presidency. I have collected a large number of instances; in many cases I have seen the picketing for myself, but I have collected several typical instances in order that the House may fully understand the problem that we are dealing with, and that the House may realise why a provision like clause 7 should be put on the Statute-book more or less in its present form. I have got five different types of picketing here. The first is one of interference with purchasers and seizing the purchased goods from them; the second is the use of female picketers who employ force; the third is to obstruct persons by lying flat on the roads and not allowing vehicles to pass, and the fourth is picketing followed by crowd action which degenerates into serious offences against life and property and is accompanied by threats, and the fifth kind is picketing accompanied by intimidation in order to force the payment of fines to the Congress, and I am going to quote chapter and verse for every one of these things.

On the 8th of July, 1930, in the Bombay City, at about 9-30 P.M., a police constable in plain clothes purchased two shirts in the Chira Bazar. When he was returning, he was accosted by three or four volunteers who asked him why he purchased shirts of foreign cloth. As the volunteers tried to get hold of the shirts, the constable caught one of them by the neck. A crowd collected and it was alleged that the constable was a C. I. D. man and he was roughly handled.

5th August, 1930, Bombay City. Congress volunteers stopped carts carrying bales of cloth to ascertain whether they contained foreign or swadeshi cloth. The bales were ripped open, and, as they were found to contain foreign cloth, a volunteer accompanied the cart to its destination to ascertain the name of the party to whom the goods were to be delivered and then reported the matter to the Boycott Committee of the Congress.

3rd November, 1930. Bombay City. Three female volunteers of the Hindustani Seva Dal, who were picketing the godown of E. Spinner and Co., attempted to prevent a hand cart containing bales of cloth from leaving the godown. The godown authorities informed the police who went to the godown and formed a cordon round the three pickets and allowed the hand cart to proceed. Soon after, five other women picketers tried to stop a second cart and similar action had to be taken by the police before the cart was allowed to proceed. A crowd collected, jeered at the police and cried "Shame".

20th January, 1931. Bombay City. In the evening a bullock cart and a hand cart laden with foreign cloth were emerging from the docks along the Musjid Bunder road when they were obstructed by about half a dozen volunteers near the Musjid Bunder Bridge. The volunteers prostrated themselves in front of the carts. The driver of the bullock cart left his cart and disappeared, leaving the goods as they were. He was afraid to come back.

21st January, 1931, Bombay City. At about 12-30 P.M., three volunteers obstructed a hand cart containing foreign cloth belonging to a Muhammadan merchant in Kambekar Street. One prostrated himself in front of the

cart, while the other two were pushing away the owner when the police arrived and arrested them.

29th January, 1931. Bombay City. At 6 P.M., a Parsi lady accompanied by two Parsis purchased some foreign cloth from Karanjia and Co. on the Hornby Road, which, as you know, is the main street of Bombay, and were about to enter their car when two volunteers prostrated themselves in front of the car. The Parsis left their car and engaged a taxi, but the volunteers followed and obstructed the taxi. A large crowd collected and some one pulled down the connection cable of the tram into which the Parsis had entered. Word was sent to the police who arrived on the scene, arrested the volunteers and dispersed the crowd.

29th January, 1931. Bombay City. Ten volunteers picketed the shops of chemists and druggists in Princess Street and Shaikh Memon Street. At 11 A.M., a customer, who had purchased some drugs, was going along Shaikh Memon Street, when he was stopped by some volunteers who wanted to examine his purchases. As he had purchased British drugs, he was prevented from taking them away. He left the coolie who was carrying the package with the volunteers and went to the Princess Street police station, but by the time the police arrived the volunteers had disappeared.

I quote now an instance from the mufassil.

East Khandesh, May 1931. The Chopda Taluka Congress Committee started to picket the shop of Fulchand Agarchand as it was alleged that he had imported foreign cloth into Chopda in violation of his pledge. The shop was picketed from May 5th to May 10th and stopped when he paid Rs. 101 which the Congress Committee had ordered as a fine upon him.

I had hoped at one time to be able to draw an analogy between the civil disobedience movement and the General Strike in England, but I consider that possibly a better opportunity for talking on that point may arise later on when the amendments relating to peaceful picketing come up for decision. I just want now to refer to what His Excellency Lord Irwin said on the 9th July, 1930, in the Simla Session of the Assembly in this connection. He said:

"Mass action, even if it is intended by its promoters to be non-violent, is nothing but the application of force under another form, and when it has as its avowed object the making of Government impossible, Government is bound either to resist or to abdicate. The present movement is exactly analogous to a general strike in an industrial country, which has for its purpose the coercion of Government by mass pressure as opposed to argument."

In this connection, in order to throw some light upon the wording of clause 7, I wish very briefly—I have taken up more time than I had intended to—to refer to what happened in Great Britain after the General Strike of 1926. The chief result which ensued from that strike was the passing in 1927 of the Trades Dispute and Trades Union Act. That Act made very important alterations in the law, and the changes which have been made in the English law are exactly analogous to the provisions which are now made in clause 7 of the present Bill. Section 3 of the Trades Dispute and Trades Union Act dealt with intimidation. It defined intimidation for certain purposes as constituting watching and besetting. Watching and besetting corresponds very closely to the various acts which have been specified in sub-clause (a) and sub-clause (b) of clause 7 of the Bill. The second thing that this Act did was to enlarge the scope of

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criminal intimidation, and it is very instructive. I am going to read out to the House the provisions of section 2 and compare the English law with the present clause. Section 3 enlarged the scope of intimidation for precisely the same reasons as Government are now seeking to enlarge and supplement the definition of criminal intimidation in section 503, because under the law, as it existed previous to the General Strike, a vast amount of intimidation and annoyance was being carried on against private individuals, which the law in its then existing form was unable to stop. Section 8 of the Trade Disputes and Trade Unions Act, 1927, reads as follows:

"Every person who, with a view to compel any other person to abstain from doing or to do any act which such other person has a legal right to do or abstain from doing, wrongfully or without legal authority:

- (1) uses violence to or intimidates such other person or his wife or children, or injures his property; or
- (2) persistently follows such other person about from place to place; or
- (3) hides any tools, clothes, or other property owned or used by such other person, or deprives him of or hinders him in the use thereof; or
- (4) watches or besets the house or other place where such other person resides or works or carries on business, or happens to be, or the approach to such house or place; or
- (5) follows such other person with two or more other persons in a disorderly manner or through any street or road; shall, on conviction thereof, by a court of summary jurisdiction or on indictment as hereinafter mentioned, be liable either to pay a penalty not exceeding £20 or to be imprisoned for a term not exceeding three months, with or without hard labour."

The other important thing which was done by this Act was the declaring of a general strike illegal as such, and any acts in furtherance of a general strike were declared illegal, and this section dealing with intimidation is the main method by which the law was supplemented. The point I wish to make now is that there is a very close analogy between what was done in England in 1926-27 and what is sought to be done now, and for precisely the same reason—that India and England were faced with problems which present very considerable similarity, and the manner in which the problem is met might well be duplicated in the two countries. In a matter like this, where the State is threatened by a subversive and powerful organised minority which wishes to enforce its will upon the community at large, there are two questions which arise. One is, how is such a movement to be stopped and the second is, how is such a movement to be prevented. In the case of England, the General Strike was stopped by calling out the forces of public loyalty and by the provision of some special regulations. A similar movement was prevented for the future by putting on the Statute-book provisions of law which render this kind of intimidation impossible. In the case of India, the movement has been stopped, but not completely stopped, by the passing of the Ordinances for the time being; to prevent its recrudescence it is necessary that similar powers dealing with intimidation, such as are provided in clause 7, shall be put on the Statute-book. Sir, I oppose the amendment.

Raja Bahadur G. Krishnamachariar (Tanjore *cum* Trichinopoly: Non-Muhammadian Rural): This is the second time that I have had the good fortune to follow my friend from Guzerat and to point out for the first

time that all his labours were unnecessary. The victory, so far as this amendment is concerned, is quite clear. I cannot understand why on earth my friend took all this trouble to read to us all these instances. They are perfectly true. Nobody denies them. Every one who follows the newspapers knows them. As you have rightly ruled, if I may say so with respect, the question is whether this amendment should succeed or not. The success is in their hands. Why all this trouble, I cannot understand. (*An Honourable Member*: "Why do you speak then?") I speak because it is my misfortune to oppose this, knowing I am going to lose. Unfortunately we are leading a forlorn hope, as the English phraseology goes. If I had my own way, I should simply sit here and see Government making motion after motion and carrying them, with no opposition. In three hours time the whole business would be over and we can all disperse. I should plainly and honestly have liked that course. Unfortunately there is the newspaperwalla who would call us all shirkers. They will say, we want something from Government. Some of us are afraid, some of us are not, but we ought all to go together. We must act in what they call the herd mentality. That is the reason why I am speaking, but honestly I do not want to speak. (*An Honourable Member*: "Your speech might convert us.") We have got a saying that when the last breath comes, there is no stopping it. Am I going to prevent the last breath from coming out? No, Sir, that is beyond my power. I am not a doctor. My friend from Bombay might try his hand at it, but I cannot do it.

Now, the great historian, James Antony Froude, has remarked that you can never rule a country autocratically except that autocracy affects your own democracy. I was wondering if James Antony Froude was not drawing upon his imagination as a theoretical historian, but today I am thoroughly convinced that I was wrong and I did Froude an injustice in doubting his wisdom, because my friend over there from Guzerat not only recited to this House the steps that have been taken in England, but applauded it and wanted similar action to be taken in India. I am afraid a speech of that sort would not be particularly welcome for instance in Hyde Park for more than two minutes and my friend would get a short shrift there. In the life of Johnson, there is mention made of a curate whose leg of mutton which was found to be good only in parts, but not as a whole. This Bill is not even like that. (*An Honourable Member*: "It is an egg.") Being a Brahmin, I cannot distinguish between one thing and another. Now, if we had a plain honest small Bill which punishes people who prevent them from doing what they are legally entitled to do, probably there would be greater support and sympathy for the Government. Now, we do not know what they want, what they are after. You are going to get this democracy and, before you get the democracy, you get the rope so tightened, so that the man has only to touch the string—and, well, it does not matter what happens.

With the permission of the House, I just want to run through this clause. I want to ask the Government one thing. Do they intend to administer this clause impartially? If they do, the whole of their C. I. D. will come in. I tell you how. The moment some of us start from our places, it may be Trichinopoly or Madras, there is a member of the C. I. D. shadowing us. I do not know if you are aware of it. They say, Krishnamachari, for instance, is No. 33. I do not know if I am honoured in their books, but some of my friends have been honoured. Directly

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they leave Madras, it is wired all over the place that No. 33 has left Madras. It is such an important business that "line clear" messages are sent. (An Honourable Member: "How do you know.") Dare anybody deny what I am saying? Let the Honourable the Home Member say "No". I shall answer that question more specifically by saying that time after time, Session after Session in this very Assembly and in the previous Imperial Council, it has been said that the most important person who had been favoured with the attentions of the C. I. D. was my late lamented friend, Mr. Gokhale. Mr. Gokhale, for whom tears are shed now, was the man who was shadowed by the police wherever he went. That, Sir, is my source of information. Now, we shall take this clause and apply it to the C. I. D. "Whoever loiters at or near a place or persistently follows him from place to place." Now, am I not entitled to come from Srirangam to attend this Assembly at Delhi? I have been elected by my constituency and I have been summoned by His Excellency the Governor General to come here. Now, here is a gentleman belonging to the C. I. D. who calls me No. 33 and follows me closely.

The Honourable Mr. H. G. Haig: Are they trying to prevent you coming?

Raja Bahadur G. Krishnamachariar: As for preventing me from coming, if I am too much annoyed, I throw the sop off. So far as the annoyance is bearable and so far as, on the balance of convenience, the annoyance is less than the importance of the duty as I conceive it which I have to perform, I come, but when I find it impossible, well, I give up. Sir, at times the attentions of these gentlemen are intolerable. Only the other day in Simla on the Cart Road there was a little bit of an incident. Every one of us knows of that. Sir, I am quite serious in my objection. I say, this man persistently follows me from place to place with intent to cause any person to abstain from doing any act which such person has a right to do. What I say is this: why does he follow me? I say, his intention is that I should not come here and speak in the Assembly. (Voices: "No, No.")

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order.

Raja Bahadur G. Krishnamachariar: Well, I cannot get into their intentions unless I am a Magistrate. Then there is no appeal to the High Court against the finding of the Magistrate. Sir, the fact of the matter is that the C. I. D. man will come and persistently follow: and now will the Government prosecute one C. I. D. man, because he comes under this clause? No. Sir, the man who would come under this clause is the man who wants to persuade another from doing what the former considers to be wrong, and then he will come within the clutches of the law. There is another more serious instance I have in mind. You know, every night, after the bazaar is closed, *Puranas* are recited. In those *Puranas*, there are various injunctions that you should not do this and should not do that. Now, such a practice will come under the clutches of the law if this clause is passed. I believe it was Lord Macaulay who pointed out that as our definitions are framed, it is theft to dip your pen into another man's inkpot: and in order not to drive the Government to such an absurd position, section 95, I believe, has been framed to disregard these minor

offences. But if Macaulay's spirit was hovering over this Assembly—and he was the **most distinguished Member** of the Legislature in the seat which my Honourable friend, Sir Brojendra Mitter, is now adorning—he would perceive that there was at least one clause which he had forgotten and which the Honourable the Home Member has now supplemented and in reference to which my Honourable friend the Member from Guzerat applauded and pleaded for a whole hour. Sir, what I cannot understand is, why it is that when a man enters a shop and wants to buy something, I should not stand in front of the shop and say, "Baba, please do not buy?" Why should that be an offence? Sir, you are just as much entitled to sell as I am entitled to prevent you from selling some thing. Then:

"loiters or does any similar act at or near the place. . ."

Now, this loitering is a thing which I certainly hold is not a question of ingenious argument as my friend, the Honourable the Home Member, characterised what I submitted the other day. What is it that you are supposed to do when they say you have been loitering? Now, I cannot walk fast and so I walk slowly. They say I am loitering, especially if I am not in the good books of the police. I quite admit that in Guzerat and other places these executive officials have had a hard time, but you are paid for it, you have got to take the lean with the fat, when you are going on with your entertainments, with your parties, with your dances, with your balls, you do not complain. But some day you get into some minor trouble why complain? Sir, it is not an easy job to rule a great Empire and these things are part of the day's work of ruling a great Empire: and simply because in a certain place half a dozen persons had prevented another half a dozen persons from doing a certain thing, you want to move a great and big Legislative Assembly to crush a fly and set to work the Nasmyth hammer. That is not the way a big Government like the British Government should rule India. It is perfectly true that you have trouble now and then. Don't you have trouble in England? You have trouble everywhere now and then. There was the General Strike in England and trouble up to 1926 and even after that for a time, there was such an uproar, but nobody heard of Consolidated Ordinances, and so on. So, before I sit down, I want to make it perfectly clear that this Assembly is not at all unwilling to give powers to the Government which would enable it to govern; but if you interpret governing to mean crushing the people and all their activities, not even allowing them to raise their heads, then we say, "Stop, halt, we cannot go with you". That, Sir, is my position and that, I say, is the position of the Legislative Assembly. Then:

"No Court shall take cognizance of an offence punishable under this section except upon a report in writing of facts which constitute such offence made by a police officer not below the rank of officer in charge of a police station."

Now, Sir, I have had something to do with law-making and I cannot understand what this *Explanation* No. (2) is supposed to constitute as a safeguard. If you want the complaint, there is a thing called "the first report of the offence". That first report of an offence is always laid before the Magistrate, and is this supposed to be more than that? If anybody has read the proceedings of High Courts, he will find very severe strictures made at times by Judges, simply because the first report does not contain all the details. Who is going to be benefited by this *Explanation*? Then,—"officer in charge of a police station". Now, there may be a little bit of fun over that with regard to an officer in charge of a police station in the

[Raja Bahadur G. Krishnamachariar.]

mufassil. About half a dozen constables and one head constable were put in charge of that police station. In one place there is a murder committed, in another place there is an arson committed, and in a third place, a theft committed. All these men go away, and there is only one man generally a new recruit of a constable in charge of the police station who is present in order to make a full report of the facts of the case,—and what does that full report say? He writes two or three lines and then refers the case to the Magistrate. Sir, that is the way these things are done. Sir, when an official report contains facts, they are taken as gospel truth. But when I state certain facts, they are taken as ingenious statements and are brushed aside. Sir, if you want the regard of the people for you . . .

An Honourable Member: Whom do you mean.

Raja Bahadur G. Krishnamachariar: I mean it is the Government of India that want the regard of the people. It is not the Chair that is in question, for it already commands the high regard of the people, and the people are so much concerned about the dignity of the Chair that they always uphold it and the affection, with which the Chair is held by the people, is already a known fact. I was only talking of the Government which try to get respect at the point of the bayonet, and I was thinking of the remarks which fell from my Honourable friend, the Official Member from Bengal, when he said that I was narrating grandmotherly tales. Sir, the relationship of a grandmother is not, after all, such a despicable one amongst us. Apart from that, it is not a grandmother story. Will you investigate the matter? I was myself going to prove the whole thing as I possess chapter and verse of it. So it is not a thing that happens occasionally; on the other hand, it is a thing which happens every day in some distant part or other of the mufassil. It is all right for people living in Simla and Delhi and travelling in their saloons, who wake up at 8 o'clock in the morning to say that India is prosperous. Sir, these gentlemen do not understand the thing; we understand it. Therefore, I submit, that in view of the possible trouble that this clause will create, I wholeheartedly support the amendment moved by my Honourable friend, Mr. Jadhav, that clause 7 be deleted although I know it fully well that this will not be the case.

Sir Muhammad Yakub: Sir, after the eloquent, elaborate and convincing speech of Mr. Sorley, for which he deserves to be congratulated, I thought there was no need to make a long speech on the motion before the House. But the clause is so important, that I think a silent vote in support of it would be out of place. Sir, if any of the mischievous activities of the Congress are to be stopped and curbed with a strong hand, it is the operation of what is generally known as the boycott movement. It is very difficult to describe the forms which this mischievous movement has taken in this country. Houses and shops were burnt, cloth was set fire to: the nose of a cloth merchant was cut at Cawnpore, while a Mussalman merchant was killed in Benares. All this was done in the name of what is known as the peaceful operation of picketing. It has been said by certain Honourable Members that the wording of this clause is very comprehensive. I would submit that, on the other hand, the wording of this clause is still not as comprehensive as it ought to have been; and I am afraid that the evil genius of Congress would forge certain other forms of picketing which would not be covered even by this comprehensive

clause of the Bill. Sir, last year in the months of May and June I was sitting in the Bar Library of Moradabad. I saw that about two or three dozen urchins, between the ages of 10 and 15, followed by two or three Congress volunteers, came, shouting insulting slogans and things like that, and besieged our Bar Library. Two or three urchins sat in each door and would not allow any of the members of the Bar to come in or go out and went on shouting that the members of the Bar should give up their profession. It was a hot day and I required some water to drink, but these peaceful picketers would not allow the servant of the Bar Library to bring water for me. Sir, this is what they call peaceful picketing which should be tolerated. Then, Sir, it must be within your recollection that only the other day an Honourable Member wanted to come to this House to attend the Assembly and his residence was picketed and he was not allowed to attend the Assembly. This and many other phases of the activities of this operation of picketing are so annoying and so inducive to the breaking of the law of the land that there can never be any peace and prosperity until this movement is put an end to. Trade is paralysed. We find that many petty merchants have become insolvent and have been ruined; their children are starving: all due to this peaceful picketing. And the most unfortunate part of it is that, quite against the pious traditions of India, women are employed for the purpose of picketing. Sir, in India woman has always been held in very high respect. She has been considered as inspiring awe and is looked upon as a sacred thing, and if a stranger touched the body of an Indian woman, he would have been shot down immediately by her relatives. But what do we find now? We find that our Congress zealots send their young womenfolk in order to be arrested and touched by the strangers. This is the limit of it. Therefore, I submit that the worst of the evils which the Congress movement has done in India is through, what is called, this peaceful picketing and if you omit this clause, it would be better that the whole Bill were dropped. For these reasons, I strongly oppose the amendment and support the clause.

Rao Bahadur B. L. Patil: Sir, it is most unfortunate that the Congress has taken up the Swadeshi and picketing. It is equally unfortunate that the Congress has taken up the temperance movement and, I may add, that it is most unfortunate that the Congress prefers milk to tea! Certainly, these are movements and national work which ought to have been taken up by each and every individual of this country. Because Congress advocates these things, they have become odious. (*A Voice:* "Do you mean to say that the Congress people do not drink tea at all?") My point is this. We legislators ought to see what is good in a particular movement and what is bad in it. I beg to submit that in every good movement there is something evil. There is a proverb in my own vernacular that every light has its shadow. So, I submit that every good movement has its black side; that we must take for granted. Sir, I am alive to the excesses the Congress people do. I know and I have heard many harrowing tales told by the victims of Congress workers. But we must, first of all, see what Congress in reality preaches. Does it preach violence? Does it preach excesses? No. Then, we must see what the advocates of the Congress are actually doing? We should not mind what the riff-raffs, who do not understand the principles of the Congress, do. They are the people who are led away by the superficial; they are the people who do not understand the theory or the principles of the Congress.

Sir Muhammad Yakub: This clause is meant for them and them alone.

LEGISLATIVE ASSEMBLY.

Wednesday, 30th November, 1932.

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

QUESTIONS AND ANSWERS.

SEPARATION OF BURMA FROM INDIA.

1522. ***Mr. S. C. Mitra** (on behalf of Mr. Bhuput Sing): (a) Will the question of the separation of Burma from India rest entirely on the voting of the Burma Legislative Council or will a Second Burma Round Table Conference be called to give the final verdict?

(b) Is it a fact that the decision now taken will be conclusive and final for all time to come? If so, what is the special reason for this?

(c) Will Burma be represented at the Third Round Table Conference in view of the results in the recent election? If not, why not?

(d) Are Government aware that the subject has aroused much public attention in India and are they prepared to allot a special day for its discussion in the Assembly as early as possible?

The Honourable Sir Brojendra Mitter: (a), (b) and (c). I regret it is not possible for me to make any statement in reply to these parts of the Honourable Member's question until the separation issue has been debated and voted upon in the Burma Legislative Council. In this connection I invite the Honourable Member's attention to the Reuter's report of the replies given by the Secretary of State in the House of Commons on the 16th instant to questions on the subject.

(d) Government are aware of the public interest in the question. They do not propose to allot a special day for its discussion.

Mr. K. Ahmed: In view of the fact that India is not yet separated and it is still under the supervision, control,—and what is the other thing? (Laughter)—direction, do Government propose to make a statement on the subject stated in the question, because it is relevant to this issue?

The Honourable Sir Brojendra Mitter: I do not understand the question, Sir. There is no question of separation of India.

Rao Bahadur B. L. Patil: If this clause is meant for such people, why do you not provide a similar clause for the excesses of Government officials? Do you not see every day that in quelling the civil disobedience movement the laws of the country are abused and Government officials often practise excesses? Volumes can be written of excesses in this country. Therefore, I beg to submit, that it is not the excesses that should be our standard in judging the movement. It is the underlying principle and the object which we have got to take into consideration. Therefore, I beg to submit to this House that we should take into consideration the real object and not the excesses—excesses committed both by some of the Congress workers and by some of the Government officials.

Then, Sir, this clause aims at each and everything. It stands in the way of encouragement of Swadeshi, advocacy of temperance and probably in the way of removal of untouchability and progress of social reform and the preservation of orthodoxy. The whole point is that it stands in the way of advocating one's own point of view, of whatever colour it may be. Therefore, it is up to the legislators to examine this clause clearly and analyse it fully. Now let me draw the attention of the House to the first portion of sub-clause (1) (a). There, so far as the words "obstructs, uses violence and intimidates" go, I have absolutely no objection. Such kinds of acts may be punished by the existing sections in the Indian Penal Code. In my opinion, sections 341, 352 and 503 are sufficient to deal with cases that come under these three kinds of intimidation. But if we take into consideration the other part of the sub-clause, we will find that it is so vague that it will certainly lead to injustice.

My Honourable friend over there, Mr. Sorley, compared the provisions of this clause to the provisions of the Trade Disputes and Trade Unions Act of 1927, section 3 (17 & 18 Geo. 5, c. 22). The fundamental difference, in my humble opinion, between the provisions of section 3 of that Act and this clause is this. By this clause we are creating a new definition of intimidation. There the definition of intimidation is intact. He has placed his argument before us to the effect that that section too contains the words "watching" and "besetting" and the words in this clause are also similar and, therefore, there can be no objection to accepting this clause. Sir, if we closely examine section 3 of the Trade Disputes and Trade Unions Act, we will see that that section clearly retains the definition of intimidation. That definition includes, as it here includes, only more serious things. For the benefit of my friend over there, let me read a few lines from that section:

"It is hereby declared that it is unlawful for one or more persons * * * to attend at or near a house or place where a person resides or works or carries on business or happens to be, for the purpose of obtaining or communicating information or of persuading or inducing any person to work or to abstain from working, if they so attend in such numbers or otherwise in such manner as to be calculated to intimidate any person in that house or place, or to obstruct the approach thereto or egress therefrom, or to lead to a breach of the peace; and attending at or near any house or place in such numbers or in such manner as is by this sub-section declared to be unlawful shall be deemed to be a watching or besetting of that house or place within the meaning of section seven of the Conspiracy and Protection of Property Act, 1875."

Therefore, this clause does not stand any comparison with that section. Sir, I am personally convinced that though picketing in certain cases leads to excesses, it can be controlled by enlightened public opinion and propaganda in the press; and, I am sure, after so much experience public opinion will not favour any excesses on the part of Congress workers.

We must, I think, look to the main object in picketing. Picketing certainly is not a political weapon; it is meant only for the purpose of encouraging Swadeshi and doing away with certain social evils.

Then, Sir, let me go to the *Explanation*. My Honourable friend, Diwan Bahadur Harbilas Sarda, has fully dealt with the *Explanation*. In my humble opinion also, it is as good as not being there; it is simply axiomatic. It says that what is not an offence under this clause is not an offence. Certainly it was very creditable on the part of the Honourable gentlemen who worked in the Select Committee to have introduced this *Explanation*. It allows us to carry on our propaganda with regard to Swadeshi and temperance, sitting all alone in our rooms and perhaps burning the midnight oil.

Then I go to sub-clause (2) which also has been added by the Select Committee. There I take exception to the words in the last sentence, "by a police officer not below the rank of officer in charge of a police station". Sir, it is a common experience that very often the officer in charge of a police station is only slightly better than an ordinary constable. A head-constable can sometimes be an officer in charge of a police station. Can we arm such an official with these wide powers? That I leave to the House to decide.

Then let us go to the procedure which is provided under this clause. We will find that it is considered to be one of the most heinous offences. In the first place, it is not bailable; and, secondly, the accused may be arrested without a warrant, and the parties are not allowed to compound it, that is to say it is not compoundable. The accused may be arrested without warrant and the parties are not allowed to compound it. It is not compoundable. If a particular person is aggrieved by the act of the accused, why should it not be kept open for that individual to compromise the case with the accused? What is the heinousness in this offence I for one cannot understand. I expect some explanation from the Honourable the Law Member with regard to this stringent provision so far as the procedure is concerned. Then, my Honourable friend, from Bombay, Mr. Sorley, gave a number of illustrations and he referred to some incidents that took place in the city of Bombay. As a matter of fact, I happened to be present at the time when one of them took place. It was the case of the Parsi lady who had made purchases in the Hornby Road; I was looking over there from the window of my hotel, and I want to bring to the notice of the House what happened in that case. The picketers concerned were two young boys, one of about 14 years of age and another of about 16 years. It is reasonable that we should make proper allowance to the tender age of the boys. Unfortunately the movement has attracted young boys and girls; we cannot help it; but how many are such cases? Such cases are few and far between and by simply exaggerating these cases we should not enact this clause which would go to prevent and almost give a death blow to the Swadeshi movement and the temperance movement and, above all, curtail the liberty of individuals of this country. Therefore, I am in full agreement with the Honourable the Mover of this amendment and wholeheartedly support him.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 30th November, 1932.

Mr. K. Ahmed: I never said the question of separation of India; I meant the separation of Burma from India. Do Government propose to give an answer since the direction, control and supervision are in their hands, and they are responsible?

The Honourable Sir Brojendra Mitter: Answer to what?

Mr. K. Ahmed: The answer to the question I have put on the floor of the House.

The Honourable Sir Brojendra Mitter: I have answered that.

Mr. K. Ahmed: That is no answer. That is a denial of answer. In view of the fact that it is clearly implied from the answer given that the Government of India have shaken off their responsibility and in view of their denial to give an answer under the circumstances, do Government propose to state what their own experience of control, supervision and direction for the province is at present?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member keeps on repeating these words.

Mr. K. Ahmed: Yes, Sir; the question was put to the Government, and the Honourable the Law Member will not appreciate it.

The Honourable Sir Brojendra Mitter: I said in answer to the question that it was not possible for me to make any statement until the separation. issue had been debated and voted upon in the Burma Legislative Council. I have no other or better answer to give.

Mr. K. Ahmed: Then do I take it that the responsibility for direction, supervision and control has been given up by the Government of India, that the Honourable Members of this House are not to ask any questions and that they will have to depend on the Burma Legislative Council?

The Honourable Sir Brojendra Mitter: The assumption is unwarranted.

Mr. H. P. Mody: Are we to understand from the reply given by the Secretary of State in Parliament that the Government of India and the British Government propose to lay down for all time to come the policy which the Federal Government is to adopt on this question?

As the Honourable Member has not apparently understood me, I would like to remind him that the Secretary of State made a statement that Burma's choice shall be irrevocable. Are we to understand that the British Government and the Government of India propose to lay down for all time to come that the Federal Government will have no rights in the matter?

The Honourable Sir Brojendra Mitter: This is a matter which is within the competence of His Majesty's Government. The Government of India are not in a position to make any statement one way or the other as to

what the policy of His Majesty's Government will be in the framing of the new constitution.

Mr. H. P. Mody: Do the Government of India propose that the Round Table Conference should at least have a say, or are they content to leave the whole question to His Majesty's Government?

The Honourable Sir Brojendra Mitter: This is a question which I am not in a position to answer.

Mr. K. Ahmed: What is the reason?

The Honourable Sir Brojendra Mitter: The reason is that this is a matter which is within the control of His Majesty's Government and not within the control of the Government of India at the moment.

Mr. K. Ahmed: Since when? (Laughter.)

Sir Hari Singh Gour: Though the Honourable the Law Member cannot answer that question, it is within his special domain as Law Member to answer this: is it not constitutionally sound that the federating units can by contract make a federation and by contract rescind it?

The Honourable Sir Brojendra Mitter: So far as I know constitutional law, there is no absolute law to that effect. No two Federations are alike and, therefore, you cannot say that this is the immutable law of Federation. What form the new Federation will take is not known to us, and, therefore, I am not in a position to answer that.

Dr. Ziauddin Ahmad: Have the Government of India sent any communication to His Majesty's Government about the separation of Burma, and, if so, what is the purport of it?

The Honourable Sir Brojendra Mitter: I am not in a position to disclose what communication was sent by the Government of India on the subject to His Majesty's Government.

Mr. H. P. Mody: In view of the statements which have so frequently been made, do the Government of India support the position that Burma, if she chooses to enter the Federation, can never get out of it?

The Honourable Sir Brojendra Mitter: That is a matter which will be discussed by the Round Table Conference. I do not see how the Government of India at this stage comes into the picture at all.

Mr. H. P. Mody: Have not the Government of India an opinion on the subject?

The Honourable Sir Brojendra Mitter: Oh, yes, undoubtedly the Government of India have an opinion as the Honourable Member has an opinion.

Mr. K. Ahmed: What is that? (Laughter.)

The Honourable Sir Brojendra Mitter: That I am not going to tell you.

INDIANS TRAINED AS GROUND ENGINEERS IN ENGLAND.

1523. ***Mr. Jagan Nath Aggarwal:** (a) Will Government kindly state the number of Indians trained as Ground Engineers in England who are at present in India; how many are employed and on what pay? What steps are Government taking to give them preference over non-Indians in employment in Flying Clubs and other companies?

(b) Is it a fact that "A and C" Ground Engineers cannot be full-fledged ones, unless they possess "B and D" Licences, which are acquired after practical experience and initiative, and are Government prepared to insist on the employment of Indian "A and C" Ground Engineers as Assistants in different Flying Clubs, so that they may acquire the necessary experience and initiative for "B and D" licences?

(c) Are Government prepared to direct the different Flying Clubs in India to report periodically as to whether they have employed Indians as such Assistants and also make the grant of subsidy conditional on the employment of such Assistants?

The Honourable Sir Frank Noyce: (a) Government have no definite information as to the number of Indians at present in India who have been trained in England as Ground Engineers. A list of Indian candidates trained in England who have applied for employment or for the grant of Indian Ground Engineer's licences is laid on the table giving the information required, as far as it is known. Government have already brought to the notice of Flying Clubs that they should give preference to Indians for employment, when suitably qualified candidates are forthcoming. There are only two aircraft operating companies at present in India, namely, Tata Sons, Limited and the Indian Air Survey and Transport, Limited. Both these firms employ Indians but Government cannot compel them to do so. By the terms of the agreement between Government and Tata Sons, Limited, however, the company undertakes to employ Indians when suitably qualified applicants are available.

(b) Owing to the fact that there are at present no aircraft and aero engine factories in existence in India, it is not possible for Indians to gain the full experience required in categories "B" and "D" of the Ground Engineer's licence in this country. The statement already laid on the table shows that the majority of the Ground Engineers trained in England who have returned to India have been found or have found employment. In addition to those enumerated in the list, other ground engineers who have been trained in India are employed by the Flying Clubs. Government have always urged the employment of Indian Ground Engineers as Assistants where suitable.

(c) Reports are already received from the Flying Clubs showing the number of Indians employed. In view of the facts stated above, it is unnecessary to impose the condition proposed.

List of Indians trained in England as Ground Engineers who have applied for employment or the grant of Indian Ground Engineers licences.

Name.	Nature of employment.	Salary.
R. P. Nair . . .	Was until recently employed as officiating Ground Engineer on a salary in charge of the Madras Flying Club during the absence of the Principal Ground Engineer on leave. Is at present employed as honorary Ground Engineer at the Delhi and U. P. Flying Club, Delhi.	
M. L. Sodhi . . .	Is at present employed as Ground Engineer in charge of the Kathiawar Flying Club.	Not known.
T. N. Khatri . . .	It is understood that he has recently proceeded to England for further training.	
H. D. Bharucha . . .	Is employed as a pilot with Tata Sons' Karachi-Madras Air Mail Service.	Not known.
J. L. Castel . . .	Is employed as Assistant Ground Engineer with the Bombay Flying Club. Recently took charge of work at the Club in the absence of the Chief Engineer on leave.	Believed to be Rs. 300—400 p. m.
M. P. Chablani . . .	Is employed as Ground Engineer in charge at the Cawnpore centre of the Delhi and U. P. Flying Club.	Not known but is believed to be approximately Rs. 300 p. m.
H. S. Bawa . . .	Is employed with Messrs. The De Havilland Aircraft Co., Karachi on a nominal salary with a view to his gaining experience for employment as Assistant Ground Engineer with the Bombay Flying Club.	Rs. 100 p. m.
B. K. N. Rao . . .	Is at present employed as a pilot with the Madras Flying Club.	Not known.
A. B. Ray . . .	Is understood to have found employment with a private aircraft owner in Bengal.	Not known.

Mr. Arthur Moore: Will the Honourable Member be pleased to say whether it is intended to start a school for the training of Ground Engineers in this country?

The Honourable Sir Frank Noyce: I am afraid I must ask for notice of that question.

Mr. F. E. James: In answer to the main question, the Honourable Member stated that Indians would be given preference. Does the term 'Indians' include Anglo-Indians also?

The Honourable Sir Frank Noyce: I think so.

Mr. H. P. Mody: Does it include Parsis?

Mr. K. P. Thampan: May I know the number of Flying Clubs in India and the number of Ground Engineers these Flying Clubs are capable of employing?

The Honourable Sir Frank Noyce: Will the Honourable Member please repeat his question?

Mr. K. P. Thampan: I want to know the number of Flying Clubs in this country and the number of Ground Engineers each Club is capable of employing?

The Honourable Sir Frank Noyce: There again I have not got the information in my head. I think there are six Flying Clubs in India, but I cannot state the number of Ground Engineers employed by them. I shall be glad to make inquiries and then let the Honourable Member know.

THE CRIMINAL LAW AMENDMENT BILL—contd.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Further consideration of Mr. Jadhav's amendment:

"That clause 7 of the Bill be omitted."

Mr. B. Sitaramaraju (Ganjam cum Vizagapatam: Non-Muhammadan Rural): Even the gallant Knight of Moradabad is dissatisfied with the provisions of this clause. His dissatisfaction is not that this clause is bad, but his dissatisfaction is that this clause is not as bad as it ought to be. To use his own words, it is not as apprehensive as it ought to be.

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions: Muhammadan Rural): Comprehensive I said.

Mr. B. Sitaramaraju: My Honourable friend says that he wanted to say comprehensive. But it makes no difference to me, because, according to my Honourable friend, the provisions of this clause are not as wide as they ought to be. There I congratulate the Honourable gentleman for the courage of his conviction, a conviction evidently

Sir Muhammad Yakub: Do you mean conviction of the Congress volunteers?

Mr. B. Sitaramaraju: a conviction influenced undoubtedly by the memory of a thirst in the bar room, but the agony of that thirst is, I am afraid, lost on this side of the House in our agony over the provisions of this Bill during the last four or five days. (Laughter.) But I would respectfully ask my Honourable friend from Moradabad whether, as a legislator who ought to inspire people with humanity, he would not think it better that he should set an example himself. He referred yesterday to the women who partook in the civil disobedience movement. I would request him to show respect to those lives and the circumstances which influenced their sensitivities. They have played a prominent part in the

political life of this country at great sacrifice. As a member of the Select Committee, I would like the gallant Knight of Moradabad to explain to me what this *Explanation* means. Yesterday one Honourable gentleman said that on a perusal of this *Explanation*, the ordinary meaning which one can attach to it, would show that what is not an offence under this clause is not an offence under this clause. (Laughter.) That seems to me to be the plain meaning of this *Explanation*. The Honourable gentleman has not, in spite of the opposition to this *Explanation*, chosen to explain what it really means. The *Explanation* was added in the Select Committee, and it was evidently made for the purpose of satisfying some member in the Select Committee that the encouragement of indigenous industries and the advocacy of temperance are taken out of the purview of this clause. I wish to sympathise with that Honourable Member who has undoubtedly been the victim of a confidence trick. The clause, as I have said, in no way helps the encouragement of indigenous industries or the advocacy of temperance, and as my Honourable friend to my left is saying, it is nothing short of a fraud. We hear so much from day to day in the English press that "Buy British" is a virtue. What is a virtue in England appears to be a vice in this country. We know, when the Ordinances were being worked, that even some of the Swadeshi shops which had nothing to do with the Congress movement were closed. In this country "Buy Indian" is a crime and "Buy British" is a virtue. I remember, several years ago, during the days of the Partition of Bengal, it was a crime to cry "Bande Mataram". At that time we were in the schools and we were treated to a substantial dose of loyalty. We were asked to sing songs of loyalty, and what was considered to be a crime was transferred into virtue by crying *Bande Matapitaram*. We must give a little bit of credit to students for commonsense. Patriotism cannot be instilled, nor can it be discouraged and prohibited by official or executive action. The clause is very wide. When we come to some of its provisions, we find that even an overt act is not necessary to come within the clause. A mere loitering near a shop or the residence of any businessman or official is a crime under this clause. Mere intention would constitute an offence under the provisions of this clause. May I ask, how that intention is to be proved? Who can judge whether the mere loitering or walking up and down a residence is with the intention of depriving a person of the liberty of doing his legitimate business. Again, not only loitering, but it would be an offence to commit "any similar act". And yet my Honourable friend from Moradabad would say that the clause was not wide enough! I do not know exactly what is intended to be covered by this phrase "any similar act". I would consider that the mere walking up and down a street where the house of an official is located or the residence of a businessman is located, would be construed to be an offence, and it would be in the discretion of the official who is to administer this law whether the person concerned had that intention or not, for it is not susceptible of proof in a Court of law when you constitute a mere intention as a crime. This clause necessarily must give power to a class of inferior men, where a singular necessity combines in its exercise all the causes of partiality and all the characteristics of injustice. I would like to add one word more, and it is this. Government ought to bear in mind, laws, however sanguinary, have always showed tendency to render men cruel by fear, by imitation and by fostering a spirit of revenge. Mild laws humanise a nation. The spirit of Government is reproduced among its citizens.

Mr. B. N. Misra (Orissa Division: Non-Muhammadan): We have heard the Honourable the Home Member say that this Bill was intended to combat the civil disobedience movement and the terrorist movement. As for the terrorist, no combat is necessary. They attack others with a pistol in one hand and poison in the other, and, after fulfilling their object, they take the poison themselves. They are beyond any body's power. They go beyond the pale of humanity and no law is necessary for them. Nor do we represent them or like them. As for the Congress, they have their own activities and the Government have their own activities. In the beginning, the Congress programme was one of simple non-co-operation and it has developed now into non-violent civil disobedience. The several phases of the movement are known to us all. Government have been trying to combat this movement and no side can be said to have been defeated.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): This general discussion has been going on for a considerable time. Will the Honourable Member specifically deal with this clause?

Mr. B. N. Misra: Yes. Now, take loitering. I do not know exactly what it means. If it means walking up and down or coming near, I think the Home Member has committed a blunder in not putting some other words there. We have heard of people prostrating before a car. Is that also included in the word "loitering"? Otherwise he is guilty of a grave omission which will perhaps crumble the British Empire to dust and paralyse the Government here. No one on this side thinks that a man by simply prostrating can paralyse the Government. We remember the saying: "The dogs bark and the caravan goes on." The administration will go on and Government will not be paralysed by this sort of action. Prostration is not molesting a man. Now take the words "similar act" in the clause. Can any Magistrate define what "similar act" means? I think the wording must be more clear than this. I do not know how the Courts will punish a man for a similar act. Now, as regards these loiterers, who invites them—the Congress volunteer or the Government? I have an experience of this picketing. A boy of eight or nine years was in front of a grog shop asking people not to drink. I do not know whether that will be considered as temperance movement or paralysing the Government. Then, immediately, four constables, *lalpagriwallas*, red-turbanned people, turned up. That excites the feeling of the people. These loiterers are invited more by the *lalpagriwallas* than by the Congress volunteers. Is it a vice to ask our fellow brethren not to drink? I think the loiterers gather more owing to the action of the Government who send the *lalpagriwallas* to deal with a petty matter like this. You give the dog a bad name and hang it. You call a man a loiterer and then punish him. We are not speaking of Congresswallas. They do not want to be defended by us. They go to jail voluntarily. They do not care to defend their case. They do not require us to oppose this law. The Congress volunteers do not even want us to speak on their behalf. What we are speaking about are those unfortunate people who come to the place out of mere curiosity. They see the *lalpagriwallas* and they come to see what the matter is. For that they will be punished. I say, these innocent people should not be punished, simply because they are there. With these words, I support the amendment.

Sir Hari Singh Gour (Central Provinces Hindi Divisions: Non-Muhammadan): I think there is considerable misapprehension on the part of my Honourable friends and others as to the real object we on this side of the House have in asking for the deletion of this clause. Looking over the various amendments I find from the speeches that have been so far delivered that my Honourable friends on this side are against what is called peaceful picketing for the promotion of indigenous industry and the prevention of drunkenness. Amendments which are probably similar to the amendment by Mr. Jadhav are those of Mr. Ramakrishna Reddi, Mr. Puri, Nos. 52 and 55 and 56, and also Mr. Mitra's. Now, the amendment we are now discussing is the deletion of the whole clause, whereas the arguments that are being addressed to you, Sir, are not arguments against the deletion of the whole clause but in regard to this amendment to protect peaceful picketing for the purpose of promoting indigenous industry and preventing drunkenness. That is the object. That would be amply met by moving the amendment to which I have referred which is low down on the paper book at page 5. I would, therefore, ask Honourable Members whether they should not concentrate on one of those selected amendments on which the discussion has proceeded so far, namely, that the Government should further amend the *Explanation* given in clause 7 and enlarge its provisions so as to prevent the prosecution of persons who are engaged in peaceful picketing for the purpose of promoting temperance or Swadeshi. I think we are all agreed that that is the object of all these amendments, and if we are agreed upon that, there should be no difficulty in uniting our forces to concentrate upon that one point, upon which Members on this side of the House feel and feel strongly.

Sir, in addressing this House the other day I pointed out that the terms of clause 7 were too wide and that the *Explanation* that had been added by the Select Committee did not serve the purpose which the members of the Select Committee must have had at heart, namely, to save peaceful picketing for the purpose I have mentioned. Let me, therefore, Sir, address you on that point. The *Explanation* says: "Encouragement of indigenous industries or advocacy of temperance, without the commission of any of the acts prohibited by this section." (Laughter from the Opposition Benches.) Now I would ask the Honourable the Home Member, is this not a contradiction in terms? How can I have peaceful picketing without committing any of the acts prohibited by this section? My friend, the Home Member, remembers the great agitation that was going on under the ægis of a gentleman who came to be popularly known as Pussyfoot Johnson, who went about picketing liquor shops and who was the pioneer of the great temperance movement which culminated in the whole of America going dry. Now, in India, long before the advent of the civil disobedience movement, we have had a very strong movement for the promotion of temperance and Swadeshi. It is wholly unconnected with any political movement: it is a purely social reform movement, engineered and worked and operated by pure and simple social reformers. It is true that the Congress, finding this a very suitable weapon for their political practice, have adopted it as part of their programme; but the mere fact that the Congress have adopted it as a plank in their civil disobedience platform should not make us blind to the fact that this movement has been existing in this country quite independently of the activities of the Congress: and if you wish to suppress the civil disobedience movement, you must at the same time safeguard that other movement

[Sir Hari Singh Gour.]

against which you have nothing whatever to say. Sir, if I go out in the evening on the high-way for a walk and I find that that road is also haunted by pickpockets, would it behove the Government to close down the whole road on the ground that that road is used occasionally by pickpockets?—and that is what they are trying to do. Sir, under the guise of suppressing the civil disobedience movement, they are trying to suppress—not intentionally but in effect—all peaceful picketing, which might result in the suppression of all those social reform activities that are directed towards the promotion of abstinence and the cultivation of a national Swadeshi spirit. I, therefore, submit that these amendments which are printed on page 5, particularly amendments Nos. 55, 56 and 57, require our serious consideration, and I would ask the Honourable the Law Member and the Honourable the Home Member to ponder over the suggestion made from this side of the House and see that the *Explanation* is altered so as to safeguard this perfectly legitimate, if not commendable, scheme of social reform.

Sir Abdur Rahim (Calcutta and Suburbs: Non-Muhammadan Urban):

Mr. President, I wish just to say one word about this matter, especially in connection with what has been said by my Honourable friend, Sir Hari Singh Gour. My Honourable friend is anxious that Swadeshi should be encouraged and also the cause of temperance. Sir, I entirely agree with him and I believe the whole country is at one with him in that respect, but may I suggest to my Honourable friend, the Leader of the Nationalists, that there is another very effective way of achieving his object and that is to give preference to all British goods, including ale, beer and spirits. Will not both the cause of temperance and Swadeshi be equally served if we adopt the policy of preference?

Mr. S. C. Sen (Bengal National Chamber of Commerce: Indian Commerce): Sir, I accept the motion moved by my friend, Mr. Jadhav. We all know of excesses committed by the followers of the civil disobedience movement. Of course at the same time we see that there are excesses by the police. Certain instances were quoted yesterday about the excesses committed by the followers of the civil disobedience movement. I can quote hundreds of such excesses, but, at the same time, I can quote thousands of excesses committed in the name of law and order by the police. But it is not my purpose to dilate on that subject now. We are now concerned with clause 7. Now I differ from the opinion expressed by my Leader, Sir Hari Singh Gour, that our object is to safeguard the activities of social reform movements and of movements for temperance. Our objection is that this clause brings into its meshes everything connected with all activities of life, whereas it should have been confined only to the civil disobedience movement; and if by any means it can be stated that this clause only relates to the civil disobedience movement, probably our purpose would be served.

Sir, I may point out that in clause 8 a phrase has been used by the Government—"in furtherance of a movement prejudicial to the public safety". Why have they not said in this clause also that the person against whom this clause is to be operated must have been acting in furtherance of a movement against the public safety? That would have

included in this clause only a movement against public safety and not a movement which is in furtherance of temperance and of all other social activities including the parental duty towards the son. My object in rising now is to show that this clause not only covers the civil disobedience, but every other activity and it can be used or abused both against the innocent as well as the guilty. Sir, in our college days we heard that one of the principal ingredients of English Jurisprudence is that thousands of guilty persons may escape but not one innocent person should be wronged.

Now, my object is to examine clause 7 in the light of that adage and I will show that it works more against the innocent than against the guilty. Now, let us take the first portion of the clause which runs:

"Whoever with intent to cause any person to abstain from doing or to do any act which such person has a right to do or to abstain from doing,"

The object of this portion is to prevent another person to dominate another person's will and for that purpose certain other acts are mentioned here, namely:

"obstruction, violence or intimidation."

Now, Sir, my son may go astray; it is my duty to control him. For this purpose I obstruct him, I intimidate him. Do I not come within the mischief of this clause? The Honourable the Home Member pointed out that as safeguard against the abuse of that clause a provision was put in *Explanation 2*. He says that the Court can only take cognizance of an offence under this clause upon a report made by a police officer. Of course, he may think that all police officers are Buddhas or Christs, but I do not think that is so. I say that it will enable a police officer, if he so likes, to blackmail me. Similarly, it was stated by Diwan Bahadur Sarda only the other day that if he wanted to obstruct an old man of 70 from marrying he would come under this clause. Sir, the clause is so wide that it will bring into its operation everything where for the good of somebody else or for my own good I want to prevent another from doing an act which he has every right to do but which is regarded as a moral wrong. Therefore, I submit that the first portion of the clause must be confined before it can be accepted by this House to the operations of the civil disobedience activities. Now, let us take the second portion which runs:

"or loiters at or near a place where such person or member or employed person resides or works or carries on business or happens to be,"

For the purpose of the illustration which I gave just now, I want to redeem my son from going to a house of ill-fame. I can't get hold of him. He is keeping himself in such a house. I keep persons there that loiter before the house for the purpose of catching the boy, and they come under this clause.

Then, Sir, it includes:

"or persistently follows him from place to place,"

The same remark applies in this case also. Therefore, the first portion of this clause prevents every person from doing something which, in the ordinary circumstances, would be considered to be beneficial.

[Mr. S. C. Sen.]

Now, Sir, let us take the second clause which runs:

"loiters or does any similar act at or near the place where a person carries on business, in such a way and with intent that any person may thereby be deterred from entering or approaching or dealing at such place,"

I may have a shop side by side with the shop mentioned here. It is my interest that customers should come into my shop and not go to the other shop. But I deter his customers by my action of loitering near his shop or in front of his shop and prevent them by persuasion from entering his shop. No overt act is necessary; mere loitering is sufficient. I am told that this clause has been taken from the English Act, but the safeguards there are omitted. In the English Act, something more has been given and something more is required. The English Trade Disputes Act, which was referred to yesterday, says:

"if they so attend in such numbers or otherwise in such manner as to be calculated to intimidate any person in that house or place, or to obstruct the approach thereto or egress therefrom, or to lead to a breach of the peace."

Therefore, mere loitering by one person will not do. Loitering must be by several persons and in such a manner as to cause intimidation or fear in the customers who are going inside that shop. In this clause mere loitering has been made a ground for punishment. Sir, these are the factors which are to be taken into consideration and these are the factors which may be calculated to bring into its purview not only the persons against whom it is intended, but thousands and thousands of innocent persons who have nothing to do with the civil disobedience movement or with any other movement which is prejudicial to the public safety. Under these circumstances, and with these observations, I support the motion of Mr. Jadhav.

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): Sir, with the laudable object of cutting short the debate, Sir Hari Singh Gour suggested and appealed to the Government to accept the amendment that dealt with peaceful picketing. But we, who are constantly watching the attitude of the Government in the House, can tell him that, however reasonable he may think it to be, Government are determined not to accept any reasonable amendment. It has been made clear, times without number,—and unfortunately Sir Hari Singh Gour was not present in the House during these debates—that Government mean to put a stop to peaceful picketing by this clause. They are not only opposed to violent picketing, but they are determined by this clause specifically to put a stop to what is known as peaceful picketing. I think the Honourable the Home Member will make it clear again by repeating the same thing, namely, that he intends to put a stop to peaceful picketing. So, Sir Hari Singh Gour may not have any misapprehension on that score. Sir, I have given no amendment for the deletion of this clause in the hope that if Government will see their way to accept any of the amendments that are given notice of about peaceful picketing, there will be no necessity for deleting the whole clause. We have conceded, unlike our friend, Raja Bahadur Krishnamachariar, that where obstruction or violence or intimidation are involved, they should, by law, be prohibited. We are agreeable to go to that extent, but when Government by this

very wide clause try to prohibit picketing—whether by peaceful means or attended with violence—and if they put both on the same level, then we insist that the whole clause should be deleted.

Not only the Honourable the Home Member, but the other gallant Knights, every time they get a chance, abuse the great Congress institution. The other day, Sir Muhammad Yakub said that, in the name of the Congress, ears have been cut off and people have been murdered and other atrocities have been committed. I should like to appeal to him that if the same logic were to be applied, in the name of religion, not in the middle ages, I am not now speaking of the Christian martyrs who were burnt alive, but even the other day, in this House, my Honourable friend, Pandit Satyendra Nath Sen, was arguing that there should be no interference by Government for removing untouchability, in the name of religion; and, on the same ground, in the streets of Calcutta a book-seller was murdered for publishing a portrait of the Prophet of Islam. I can cite innumerable instances of what has been done in the name of religion—much more than what one could contemplate having been done by the Congress. Should we make religion responsible for these atrocities? In the name of freedom, the atrocities of the French Revolution and the Russian Revolution have been committed. Is that any reason why there should be no propaganda for political freedom or freedom of thought? My Honourable friend's argument comes to that. He is an *ex-Speaker*, and so I cannot lightly brush his arguments aside. My Honourable friend, Diwan Bahadur Harbilas Sarda, made it absolutely clear that what Government want to prohibit is the sale of Swadeshi goods. If that is their intention, let them specifically say so. If there is obstruction or coercion or intimidation, by all means let the Government stop it. But do not frame a clause which, under the pretext of prohibiting these admittedly wrong things, put a stop to all propaganda in this country for the purchase of indigenous goods. Examples have been given by the Leader of the Nationalist Party. It may be said, if there are thefts, the effective remedy is to cut off the right hands of the suspects, and thus stealing may be put an end to. But is that a commendable thing? That is the logic of my friend, Sir Muhammad Yakub. He has forgotten that for the last forty or forty-five years the spirit of nationalism and Swadeshi that we can boast of was from the inspiration of the Indian National Congress. Certainly we do not subscribe to every phase of the modern Congress movement. We have said we do not support the Congress method of direct action. We have said, this boycott of the Legislatures was foolish. That is no reason why people should decry the Congress on every possible occasion and make it responsible for all possible wrongs. About this clause where is there anything about the civil disobedience movement? If we read it with a fair mind, we will see clearly that the clause is meant to protect the foreign trade in the country and that is quite patent to anybody. It is this kind of attitude that makes people suspicious about Government. Why should Government not allow the people of this country by peaceful persuasion and appeal to their sentiments to make sacrifices, if necessary, to encourage the purchase of indigenous goods? Thus they will be able to help the development of national industries. If the Congress persuades people to purchase Swadeshi goods, why should a third party, the police, interfere and arrest a person? The offence is not even bailable; and that is the point I should like to draw the attention of the House. As a true Briton, Sir Leslie Hudson says we are in the midst of war. He has the true Churchillian and die-hard

[Mr. S. C. Mitra.]

conservative mentality. If this piece of legislation is really a pretext of putting down civil disobedience, but actually meant to do propaganda for British trade—we cannot accept it. It is that which we are apprehensive of. We are not thinking of imaginary cases, we believe that true Swadeshim, honest Swadeshim, as one of the Viceroys used to call it, will suffer. I will read to the House a letter addressed not to me personally but as the General Secretary of the Independent Party written by Virchand B. Setti and this shows how, in the name of law, even honest Swadeshi is being hindered. This is the statement of Mr.

12 Noon. Kashiram Lalobhai Mehta, a village schoolmaster and carrying on the work of village reconstruction in the village of Zinzavadar (Kathiawar):

"I, my sister Veniben and three students of mine, of late, move about in villages for the propaganda of Swadeshi and '*Bhajan kirtan*'. We distribute leaflets about Swadeshi and village reconstruction published by Ramji Hansraj of Amreli and printed by Saraswati Printing Press of Bhavnagar. One copy of each of the leaflets is enclosed. Over and above distributing these leaflets and singing '*Bhajan Kirtan*' (religious songs) we exhort the villagers to take to simplicity, to leave off bad habits and to use Swadeshi.

In connection with the above general programme, on the 12th instant, we happened to go to the village Khambhada in Dhandhuka district where, at the village chowra, a few persons gathered round us. I began to read the leaflets appended to the appendix when the village headman came there, thrust me in the chest with the butt-end of his lathi and ordered me to stop reading the leaflets. The people were all asked to disperse. All the five members of my party and Gopal, a Kunbi boy of the village, were put under arrest and carried to Utara, the village police *chowki*. At the *chowki*, they released Gopal asking him not to co-operate with people like us and snatched away from us all the Swadeshi literature, blank papers, pencils, holders, etc. We next were sent to Barvala, one of the four principal towns of the district, to the assistant police sub-inspector there. At night we were not given any food or bedding.

At Barvala the sub-inspector threatened us for the propaganda of Swadeshi and abused one of our party in profane language even though my sister was present there.

Next afternoon, we were taken to Dhandhuka, the principal town of the district, to the sub-inspector there, where our reception was no less hostile, and, over and above, abusing us, he threatened to prosecute me for the offence of kidnapping the two students who were with me. The same evening we were sent away by a train to Botad, outside Dhandhuka Taluka."

Sir, my Honourable friend, Mr. Sorley, cited some cases of abuse of Congress propaganda; if you will permit me during the third reading, I shall cite ten times the number of cases which he has cited of the abuse of powers by the police and lower grade officials throughout Bengal. I know similar atrocities are happening everywhere, but owing to the curtailment of the liberty of the press, the papers are afraid to publish anything. I have got piteous letters from editors of papers. They appeal to us and say that under the present Press law, they cannot give vent or publish even a hundredth part of the cases that are reported to them. And because these cases are not published by the papers, owing to liability to forfeiture, that is no reason to think that the country is, under the Ordinances, being properly governed. If Government really see their way to be reasonable, as Sir Hari Singh Gour said, if they are ready to accept the provision about peaceful picketing, certainly we shall withdraw all our amendments and will be agreeable to pass the clause for prohibiting picketing where obstruction or coercion or intimidation is involved. If that suggestion is not accepted, we shall support the motion for the deletion of the clause.

Mr. Jagan Nath Aggarwal (Jullundur Division: Non-Muhammadan): Sir, I rise to support the amendment on a two-fold ground. First, I carefully considered this clause and tried to see whether it was possible to amend it. From the attempt of the Select Committee to amend this clause, it is fairly clear that they have failed in the attempt. The clause is so wide and so involved that it is an impossible proposition to amend it and, therefore, I think the best way of dealing with it is to end it. The other reason why I support the deletion of this clause is that this clause is likely to be an engine of oppression in the hands of people who are vested with these powers. It is likely to lead to petty tyranny and to promote a feeling of autocracy among people. If you are out to give people powers of this most vague and indefinite kind, it is just as well to think what use is likely to be made of them. In fact it appears that in the framing of this clause the means used by the civil disobedience promoters were in the brains of the framers and all ideas of legal precision have been thrown to the winds in the drafting of this clause. Let me take these things one by one.

First, you find intention. They say that if this man has a certain intention, he shall be punished. What is the intention? The intention is to cause any person to abstain from doing or to do any act which such person has a right to do or to abstain from doing, which is, in short, to influence the volition of a person. You may have that intention with the most laudable of objects or with the most perverse of objects. You may have the intention of persuading that man to use indigenous things, you may have the intention that he should go dry or in the form of a *pater-familias* persuasion you may ask him to do some other thing. So that intention may be exercised in a variety of ways. All kinds of persuasion have that intention at its back. Therefore, unless you have that guilty intention, you shall not be punished. This intention is the simplest of all possible things which a man may have, whether a man is persuading or using that moral pressure which we use every day. With that very simple of intentions, some acts are punishable under the Penal Code. First take these words:

"obstructs or uses violence to or intimidates such person or a member of his family or person in his employ."

That, you will be pleased to notice, is an offence to a person, to a member of his family, or even to his servant. If my servant, when going to the market for purchasing a certain thing, is obstructed, a precarious kind of complaint will have to be lodged. Anybody can complain for what happens to him or to a member of his family or to his servant. A curious extension of legal liability is visualized here. The first part of it, "obstructs, uses violence to or intimidates" is covered by the Penal Code, but even in the first part you have a very large extension of it and that is the handiwork of the Select Committee.

Then, Sir, we go further. It may be possible to amend the previous part, but look at what follows. The next is, where with that intention he loiters at or near the place where such person, etc. Loitering is a word of very vague import. We used to have it in the Vagrancy section. If a man is a vagrant and has no means of livelihood and comes up against a policeman, he can be got hold of. But here it does not refer to a man without any means of livelihood or anything of that kind. You are loitering with the intention of persuading somebody. Then, "loitering at

[Mr. Jagan Nath Aggarwal.]

or near a place where such person or member or employed person resides or works or carries on business or happens to be". It does not finish there. This is what takes one's breath away. This man or a member of his family or his servant goes to Connaught Place to buy a certain thing and somebody happens to be there. Immediately, not by the fact of the loiterer being there, but by the fact of this person going to Connaught Place, the thing becomes an offence. This man may be loitering there the whole day and the people of Connaught Place may not have the slightest objection to the presence of this person. He may be a candidate for one of the jobs that has fallen vacant with the words "No vacancy" staring him in the face; but the mere fact of his being there all day is no offence until one of these protected persons, a member of his family or his servant happens to come there. He happens to be there and, therefore, this person's loitering there, whatever that may mean, becomes an offence. I do not know whether any Select Committee on earth can improve on the words of this clause. Drafting in the Government of India used to be one of those things which we in the provinces always commended, but this will lead us to change our opinions. I do not know where words like "happens to be" are likely to lead us to. He has no business to loiter in any place where a certain person "happens to be". It is much better that such a "protected person" be locked up in a certain place.

Then we go further. A person with that intent "persistently follows him from place to place". He is like a beggar and, if he is doing it, it becomes an offence. "Or interferes with any property owned or used by him or deprives him of or hinders him in the use thereof". Now, Sir, the conduct of this person *qua* that man had become an offence, now the conduct of this person *qua* property becomes an offence. Sir, look at the vagueness of it. Trespass and other things you can punish, but now any man can come and say that because such a man was near his place he was afraid to go in. All cowards in the land will have a premium placed upon their cowardice and unnecessary fright. The man may say that he saw a nightmare and he did not like to enter, because of the white clothes this man was wearing. It really takes one's breath away and I think it is impossible to amend such a clause. Then, Sir, we do not stop there but go further. Loitering was by itself fairly ambiguous and vague so far as legal terminology went. We go further and we find "loiters or does any similar act". Loitering is bad enough, and doing any similar act means that if anybody approaches within a hundred yards of any person who does not like the look of his nose or the cut of his face or the shape of his coat, then it would be an offence. It is really impossible to improve upon this phraseology. Then:

"loiters or does any similar act at or near the place where a person carries on business, in such a way and with intent that any person may thereby be deterred from entering or approaching or dealing at such place."

It would amount to this: if anybody in the world is told that a ghost is white, then he could say "I could not even enter my house, because I saw that man in white and he looked like a ghost". This is a hopeless proposition to lay down and it is impossible of amendment. Our friends were very happy in having devised an *Explanation* which of all things is the biggest of frauds,—and I may be pardoned for using that expression—this *Explanation* is the very limit of legal tolerance that one can approve of. We are told that peaceful picketing and encouragement of Swadeshi or temperance would

not be an offence and the Honourable the Home Member and the Law Member must have put their heads together and with their tongues in their cheeks said: "Yes; we will allow these people to have this *Explanation*, because it explains nothing and it means nothing", as I shall presently show how the two Honourable Members have made a 'present of this to the opposition and to the whole country. If they had said "encouragement of indigenous industries or advocacy of temperance is not an offence under this section", it would be grand, but what do they say?—"without the commission of any of the acts prohibited by this section". What is not prohibited by this section? This section prohibits obstruction, use of violence, intimidation; it prohibits loitering at or near a place; it prohibits the following of a person, interference with property and any hindering or loitering or any similar act or being near a place which would prevent anybody doing anything. I would like most respectfully, without being frivolous, to know if it is possible to promote any Swadeshi or temperance without going near a person, without talking to him, without persuading him and using moral force or any kind of force, and without going to him or to his place? You cannot use any of these methods under this clause. You have to go near and you must do some propaganda; otherwise how is propaganda possible? This clause aims at the right of association, aims at the right of propaganda, aims at the right of people to go and talk to people and convert them to their views and it aims at all kinds of things. A clause like this, with this foolish *Explanation* added by the Select Committee,

An Honourable Member: It was added afterwards.

Mr. Jagan Nath Aggarwal: Added after the walk-out? I am very glad to hear that; if it was done after the walk-out, there is ample justification for those people to go back as that might lead to some improvement in the phraseology. This *Explanation* takes one's breath away. This *Explanation* is the most harmless and innocuous of *Explanations* that has ever been put into legal phraseology, and Sir Hari Singh Gour, my learned Leader, in his next edition of his Law of Crimes, can safely put it as one of the most harmless of legal *Explanations* that was ever brought before a legislative body

Sir Hari Singh Gour: Words without any meaning.

Mr. Jagan Nath Aggarwal: Then we were told that this sub-clause (2) is a great safeguard, and one of my learned friends pointed out that it was a real safeguard and I thought it meant that without the sanction of the Local Government or some such thing nothing could be done; but when I read it carefully, it means nothing more than an officer of the rank of an officer in charge of a police station can launch proceedings. That is the real thing. The whole point is that the police have got something on their nerves and some thing on their brains; and they see white everywhere; it is the white that is the real difficulty. I do not see why the liberty of a citizen in this land should be restricted by a legislative measure of this kind. If you want to restrict the liberty of every man in this land for a certain time, do it by a regular fiat of the executive; do not do it under the garb of a legislative measure. This is hopelessness in legislation and, as I said, it is an attempt to bring together in a compendious measure all kinds of sundry things which may have no connection with any legal offence. I, therefore, submit with all respect that this clause is impossible of amendment and should be deleted.

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LEGISLATIVE ASSEMBLY. [30TH NOVEMBER 1932.]

Pandit Satyendra Nath Sen (Presidency Division: Non-Muhammadan Rural): Sir, it is with great reluctance that I have to speak a few words on the amendment that is now before the House. I rise to support the amendment not because I actually want complete deletion of the clause, but because the clause has been very badly drafted, that is to say, because no law is better than bad law or mischievous law, because the former is the lesser evil than the latter. My grounds for rejecting this clause are three: first, because it is so badly drafted that it is hardly amenable to amendment; second, even if a reasonable amendment is proposed, it is certain that it will be refused by Government, and third, that this law has always been misused and abused by the police and is likely to be abused by the police in future, because it has the stamp of vindictiveness which has been made manifest in clause 9 (iv) that it is going to be made non-bailable. This clause 7 is directed against picketing and Swadeshi. I believe that there are very few Members in this House who are more closely connected with the sufferings of Swadeshi. All those that are near and dear to me—my two sons, my brother, my nephew, my niece,—all have been in jail once, twice or even thrice and they have been subjected to the most brutal treatment—caning, roping, beating and what not; and all this for peaceful and non-violent Swadeshi, quite in conformity with the Congress manifesto as was read out by my Honourable friend, Mr. Sorley, last evening. In spite of all this, as a peaceful citizen, from the true Swadeshi spirit which I have imbibed from my orthodox culture, I am against offensive picketing, because I regard that as a foreign import. I have already made it clear that I am not for complete deletion of the clause, because I feel that some of our countrymen are developing a tendency to thrust their own views upon others; and I now fully appreciate the dictum of John Stuart Mill that “there needs protection against the prevailing sentiment and feeling”. I would accept the clause if I could receive a guarantee from Government that it will be improved upon with proper safeguards. I say proper safeguards, not a safeguard like the one that has been suggested in the *Explanation*. Frequent references have been made to that *Explanation* and if I refer to it again, I have a special ground. When the discussion on clause 4 was going on, it was enunciated by the Honourable the Law Member that any addition which may be deduced from the principles of jurisprudence should be regarded as foolish. When that was enunciated by the Law Member, I wonder how this sort of *Explanation* could be allowed by the Chairman who happens to be a lawyer of great eminence. The addition of the clause “without the commission of any of the acts, etc.,” contained in the *Explanation* has made the reading of this *Explanation* much more ridiculous than it would otherwise have been. If it was not merely for the sake of clarity, I am inclined to take it as a mere hoax, and if the acceptance of my amendment which sought to specify some special grounds where Magistrates might take different views is to be regarded as foolish, I do not know how to characterise this *Explanation*.—may I with all humility call it idiotic?

Mr. N. N. Anklesaria (Bombay Northern Division: Non-Muhammadan Rural): That was from your Party.

Pandit Satyendra Nath Sen: That I do not know. It was allowed by the Chairman, and if it is so, I should like to put some questions to the Honourable the Law Member. First, at the time of discussion, did he or did he not realise the hollowness of this *Explanation*, and, second, if he did, why did he not point out the hollowness to the Members of the Select

Committee? My third question is, is he yet prepared, with the permission of the Chair, to delete that clause, that nonsensical clause which, if kept on the Statute-book, will be regarded as a reflection of the mental calibre of the Members of this Honourable House. (Laughter.) Sir, I do not want to prolong my speech as the Government are not in a mood to accept any of our reasonable amendments.

Mr. H. P. Mody (Bombay Millowners' Association: Indian Commerce): Sir, I am on principle opposed to incorporating in the ordinary law of the land provisions of such a drastic character as are embodied in this Bill. I cannot, however, support the entire deletion of this clause which is the object of the amendment before the House. I come from a City where picketing has been carried to lengths which have made organised economic life absolutely impossible. It would be difficult to conceive of the excesses which have been committed in the name of peaceful picketing were it not for the fact that we live in times which are abnormal. I, therefore, cannot possibly support the demand that there should be no provisions in the law of the land with regard to picketing.

A great deal has been said about the motives which have inspired those whose picketing activities have been most noticeable during the last two or three years. Even when the motives are of the most unexceptionable character, after all there is something like the liberty of the citizen, and you cannot allow the liberty of the citizen to be jeopardised, whatever the motives. It cannot, however, be said that in all cases these motives have been unexceptionable. Apart from the advocacy of temperance or of Swadeshi, there have been innumerable instances in which picketing has been carried on simply because an unfortunate shopkeeper or a householder, as the case may be, has made himself obnoxious to those who are organizing this movement. Now, Sir, if it was the case that this clause could not be altered or improved at all, then even if there have been excesses, I am not prepared to say that you should have a provision of this character, but I see there are several amendments which would make this clause unobjectionable, and which would carry out the object which, I think, we all have in view. I have not heard any of my Honourable friends contend that picketing has not been carried on to abnormal lengths. All that they have said is that this clause is much too wide and will engulf both the innocent and the guilty. I find, however, my friend, Mr. Anklesaria, has got an amendment, and it is one of many, which lays down that nothing in this section shall be deemed to apply to any act which is done without any coercive intent or which is not calculated to cause and does not cause any obstruction, violence, intimidation, alarm or annoyance to any person. I am inclined to think that if such an amendment were pressed, it would do away with a great deal of the objection which we entertain to the somewhat wide phraseology of this clause. Whether you haul up a man because he loiters near a house, or because he harasses a servant or family member of another, so long as the intention to coerce or the effect of coercing is not there, he could not be held liable. For these reasons, I am not prepared to support this particular amendment, but at the proper time I shall support such other amendments as, in my opinion, seek to do away with the obnoxious features of the clause.

Mr. K. Ahmed (Rajshahi Division: Muhammadan Rural): Will the Government accept it?

Mr. H. P. Mody: That is their look out. So far as I am concerned, I know what lobby to walk in on the particular amendments.

There is just one thing which I want to point out with regard to the *Explanation*. Several of my friends have characterised this *Explanation* in strong terms, and I agree with them. After all, is it intended by this *Explanation* that encouragement of indigenous industries or advocacy of temperance are the only things which can be advocated without the commission of any of the acts laid down in the clause? Supposing I take it into my head to advocate celibacy. Shall I be in trouble over it if I carry on its advocacy without the commission of any of the acts mentioned here? I say, this *Explanation* ought to go out altogether. It is not only the advocacy of temperance or encouragement of indigenous industries, but any kind of advocacy, no matter what it is, that ought to be outside the section, provided the prohibitions laid down have not been infringed. The *Explanation*, therefore, is not only silly, in my opinion,—but it is also dangerous. You ought not to have a proviso of this character, because it seeks to confine the immunity to two classes of acts, whereas it ought to extend to every class of act done in a lawful manner. While, therefore, I will not support the deletion of this clause, I shall certainly at the proper time press for the amendment of it.

Mr. C. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): Sir, I was rather taken aback by the speech of the Honourable Member from Bombay. It is too early in the day to get mixed up whether for the Honourable gentleman who just spoke or, for that matter, the Leader of his Party who is not present, even though he made a rather unfortunate insinuation against the Leader of my Party. Sir, the Honourable gentleman who just spoke got mixed up with the *Explanation* which he condemned and the clause which he partly approved—Take away the *Explanation* and the clause falls to the ground, this is what he said

Mr. H. P. Mody: I did not say that at all.

Mr. C. S. Ranga Iyer: The Honourable the Leader of his Party got mixed up with preference and picketing. Coming events cast their shadows before

Mr. R. K. Shanmukham Chetty (Salem and Coimbatore cum North Arcot: Non-Muhammadan Rural): He mixed up ale and beer.

Mr. C. S. Ranga Iyer: My friend, Mr. Chetty, says that he mixed up ale and beer. That must make a poor cocktail to go to the head. (Laughter.) Sir, to talk of preference, while we are talking of picketing, is a presage of the combat on preference while we are today combating picketing. Coming events, as I said, cast their shadows before, and I prefer to deal with the substance when the time comes rather than the shadow, because even though the shadow may be bigger in size, yet the substance will be better in actuality. So much for preference.

And now, the Honourable gentleman from Bombay asked, how when you take away the *Explanation* the clause does not fall to the ground? The *Explanation* has been explained with various adjectives of a detrimental kind to the *Explanation* and the explainer's reputation. I for my part

think that the *Explanation* is certainly better; it makes the clause better; but I neither like the *Explanation* nor the clause. I want the deletion of both. You cannot delete the clause and keep the *Explanation*.

The Honourable gentleman said he came from a City demoralised by picketing. I hope that the Honourable gentleman is not ten years old. He is four times ten years to put it moderately. (Laughter.) (*Mr. H. P. Mody:* "Five times.") (Laughter.) He says five times. Were it so, he would have remembered that even in the absence of this law, ten years ago, when there was picketing in Bombay, it was possible to proceed against picketers of the kind he described, under the ordinary law. He knows the law. He knows the Penal Code. I am not a lawyer. There is a section in that Code, and he has read the intimidation section—section 506. That section is competent to deal with the class of people who have embarrassed him, who have embarrassed his comrades, and embarrassed all those who stand for this Ordinance Bill. I could not understand an Honourable gentleman standing on the floor of this House with a constituency to represent—I cannot understand Mr. Mody of all people standing up and saying that part of this Ordinance clause is good. Is this Ordinance Bill good like the curate's egg, in parts? (Laughter.) Sir, it is amazing that an Honourable gentleman with the reputation that he has should have approved in a kind of manner this clause

Mr. H. P. Mody: If my Honourable friend will allow me to interrupt him? (*Mr. Ranga Iyer* sat down.) I would say that if he had studied the subject at all, he would have known that the provision in the Penal Code, or wherever else it exists, was not at all adequate to the needs of the situation even when there was no civil disobedience movement. (Applause from Government Benches.) As a matter of fact, there was a demand sent up by several associations, including my own association, for the tightening up of the law, which is not even as adequate as the English law on the subject. (Cheers from the Government Benches.)

Mr. C. S. Ranga Iyer: I am satisfied with the punctuation of Official Applause with which Mr. Mody's observations were received. (Laughter.)

Mr. H. P. Mody: Does not my Honourable friend sometimes receive it too?

Mr. C. S. Ranga Iyer: I hope to get it.

Mr. H. P. Mody: You will, after a couple of days. (Laughter.)

Mr. C. S. Ranga Iyer: The Honourable gentleman is not only a lawyer, but a prophet (Laughter), and when I hope to get it, I believe I will get it not on an official motion, but on a motion that emanates from the Leader of my Party. (Cheers.) Sir, he said that the ordinary law has not been adequate. Does he think that the Ordinance Bill makes it adequate? If the Honourable gentleman were worried about picketing, he would have all these days not remained idle in this House, but tried to improve the ordinary law of the land, instead of applauding a clause in a most reprehensible piece of legislation—reprehensible from the Moderate and Opposition point of view, reprehensible from the Congress point of view, and reprehensible from the point of view of every lawyer or lover of the ordinary law. (Hear, hear.)

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LEGISLATIVE ASSEMBLY. [80TH NOVEMBER 1932.]

[Mr. C. S. Ranga Iyer.]

The Honourable the Home Member was saying yesterday,—while replying to my Honourable friend, Mr. Amar Nath Dutt, who with his characteristic stubbornness has been putting up a fight day after day—the Home Member said that when the Honourable gentleman from Bengal described them as impatient, they were sitting there day after day and thereby had shown that they were patient. I admit, though his “patience be a tired mare, yet she will plod”. But our patience, in fighting the Bill before us, is bitter, though the fruit that he reaps by the votes is sweet.

I can only say that if you take away the right of peaceful picketing, you are taking away one of the legitimate weapons of our people, and the *Explanation* which talks of encouragement of indigenous industries or advocacy of temperance does not justify the picketing of liquor shops, does not justify the picketing of shops of a certain kind where when foreign articles are dumped indigenous industries are put in danger.

As I said the other day, when we do not have the right of erecting our own tariff walls, when we do not control the tariff policy, when we do not have fiscal and financial autonomy, we must at least have the right of peaceful picketing. That right is being taken away by this political measure with a view to jeopardising the advance of the Swadeshi cause. For this reason, I condemn this clause. I oppose it lock, stock and barrel. (Cheers.)

Hony. Captain Rao Bahadur Chaudhri Lal Chand (Nominated Non-Official): After the suggestion made by the Leader of the Opposition and after the speech delivered by Mr. Mody, it was expected that the Honourable the Mover will stand up and ask for the withdrawal of this amendment. This he has not done, and there is no chance of his withdrawing the motion after the speech that we have heard last. (Mr. B. V. Jadhav: “No assurance from the Government Benches.”) I must congratulate Mr. Jadhav on the great courage, I won't say boldness, he has displayed in moving, not a toning down of the picketing clause, but its complete deletion, after the prolonged debates both at Simla and here and decisive verdicts of this House on the previous clauses of this Bill. All of us know that if picketing is allowed to continue, the Congress would not mind the other clauses, and if picketing is deleted, Government would not care to have this Bill at all. In spite of this knowledge, Mr. Jadhav wants such an important clause as this to be thrown out; in other words, he wants the play of Hamlet to be staged without Hamlet. Sir, there is one more reason for my congratulating Mr. Jadhav. If there is any place where picketing has made peoples' lives intolerable, as has been so ably pointed out by Mr. Mody, where the so-called riff raffs employed for picketing have brought bad name upon the Congress, where an ultimatum was given by the Congress which has thrown the greatest man of the day into prison, it is Bombay. It is in that Presidency that the Swadeshi millowners have kept the fire of disorder and lawlessness burning by giving large donations to the Congress for the civil disobedience movement. That being the case, it means great courage for an ex-Minister of that province to get up and ask for the total deletion of this clause. Mr. Sorley on this side was, therefore, fully justified in quoting instance after instance of the high-handedness of the agents of the Congress whom Rao Bahadur B. L. Patil has tried to brush aside by calling them riff raffs. Mr. Sorley has shown the absurdity of the movement in its nakedness, and no further arguments

are needed to supplement him. The Honourable the Raja Bahadur,—I am sorry he is not here today—treated us yesterday with his old arguments against the public servants and offered to produce documentary evidence from official records. He resented the remarks made by my Honourable friend, Mr. G. S. Dutt, the other day and challenged him by saying that he was prepared to bring certified copies. I may tell him that the instances that he quoted, and certified copies of which he promised to bring before this House, related to the period when he was practising in the mufassil in the last century. We have been moving very fast and conditions have since changed. In order to supplement his knowledge and in order to bring him up to date I may quote one instance, with your permission. Sir, in order to show under what strain the public servants, who have been abused so much in this House during this debate, have been working. Sampla is a police station 30 miles from this Assembly Hall. In the last week of October, the police force of that thana, which consists of 8 constables, two head constables and one sub-inspector, was subjected to severe attacks in three different villages. One constable was shot dead. Another constable had his leg broken and is lying in hospital, and the third had his arm broken. All this is the result of the propaganda that has been preached in villages against public servants.

Mr. B. V. Jadhav (Bombay Central Division: Non-Muhammadan Rural): By whom?

Hony. Captain Rao Bahadur Chaudhri Lal Chand: Need I answer that question? It has been going on for several years with impunity and I must say that Government has so far connived at it. But for the Ordinances things would have been worse. It is these Ordinances that have saved the country from revolution. My friend, Sir Muhammad Yakub, remarked yesterday that Government had not gone far enough and I noticed smiles on the Opposition faces. He did not point out in what way Government had not gone far enough and, with your permission, I wish to make good the omission. Government certainly have not gone far enough inasmuch as Government have allowed the burden of suppressing this lawlessness to be borne by peaceful citizens. They ought to have made a provision in this Bill in order to ensure that this extra burden that is being entailed and the extra expenditure that is being incurred, in order to suppress this movement, should fall on the shoulders of those only who are responsible for it. Government will, I hope, soon have to come before this House for this purpose and the Honourable the Finance Member will take note of it before he frames his budget.

Sir, I must confess that the measure proposed is liable to abuse in some cases and is drastic in its nature, but we ought to realise that the remedy ought to be always in keeping with the disease. Poisonous drugs are actually administered to some patients by the doctors. Cases have happened where patients have died because the doctor was careless or negligent. I would go further and say that there are black sheep among the public servants as well and we cannot expect everybody to be perfect. All that we should do is to bring particular cases to the notice of the Government and Government will, I am sure, take due notice of such negligence on the part of public servants. Times out of number Government have been reminded of the spirit of co-operation which the Opposition Members have shown in coming to this Assembly and Government have been warned not to tire their patience. With your permission, I may point out . . .

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Will the Honourable Member explain how his speech is relevant to the clause now under consideration?

Hony. Captain Rao Bahadur Chaudhri Lal Chand: The trend of the argument that has been advanced so far

Mr. President (The Honourable Sir Ibrahim Rahimtoola): At present we are dealing with this clause only.

Hony. Captain Rao Bahadur Chaudhri Lal Chand: I am referring to the speeches that have been made on this clause alone. Speeches have been made deploring the idiosyncrasies of police officers and other public servants.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Arising out of this clause. The Honourable Member has got to deal with this clause and the amendment seeking to repeal this clause. We have had on other occasions a comprehensive survey of the whole provisions of this Bill. That ought to stop now.

Hony. Captain Rao Bahadur Chaudhri Lal Chand: I accept your ruling and, without taking more time of this House, I will only submit that it will be expecting too much from this House to agree to the deletion of this clause and I oppose this amendment.

Mr. Amar Nath Dutt (Burdwan Division: Non-Muhammadian Rural): After the exhaustive arguments, both for the deletion and in support of the retention of clause 7, it would not have been necessary for me to rise up at all but for the speeches of the Official Member from Bombay, of my friend, Mr. Mody, and of my friend, Captain Lal Chand. To some of their remarks I propose to reply.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): It must be relevant to this clause.

Mr. Amar Nath Dutt: Certainly. Mr. Sorley was trying to give a large number of instances of picketing and I will tell Mr. Sorley how those, who were said to have been harassed, have behaved elsewhere and they do not deserve to be entrusted with the power of prosecuting for picketing, though no officer below the rank of an officer in charge of a police station can institute complaints under this clause. He began by saying that there was law breaking of two kinds, that of mass civil disobedience and picketing. I submit that this clause has nothing to do with mass law breaking, but it has certainly everything to do with picketing and although we do not find the word picketing anywhere in this clause, still I think that was the one word which was in the minds of the framers of this clause. So I think the use of the word "picketing" will be allowed by the Chair to be used by me and also be considered to be relevant to the subject we are considering at the present moment. My friend over there said that this clause was necessary, because the definition of criminal intimidation in the Indian Penal Code was not sufficiently exhaustive. That was his argument and he has a supporter from the

Presidency, to which he belongs, in Mr. Mody. He also says that the existing provisions are not sufficient and, therefore, such a clause is necessary. I wonder if the society and the law by which the society is kept up is progressing or deteriorating.

Since the days of Thomas Babington Macaulay, who framed the Indian Penal Code, my idea was that criminal law should become more humane, more civilised rather than that it should go back to those mediaeval ages when "an eye for an eye and a tooth for a tooth" was the rule of law: and, Sir, to ask the Legislative Assembly at the present moment for a more exhaustive definition of the words "criminal intimidation" by introducing such a stupid clause, if I may be permitted to so describe it, as that which we are asked to adopt, is absurd. Sir, I said deliberately that this is a stupid clause, because I beg to submit that it restricts human right altogether and activities of every kind, however beneficial, as has been shown by Member after Member. That being so, I think, Sir, no man in his senses would try to put a stop to all human activities by the enactment of a clause like this and thus restricting the elementary rights and liberties of citizens, about which my Honourable friend, Mr. Mody, whom I do not see here now, waxed so eloquent.

Sir, the Honourable the Official Member from Bombay was pleased to give instances after instances of how Congress picketing goes on in his Presidency. I shall not tire out the patience of this House by quoting on the other hand instances after instances—and if it were necessary I would have given him a hundred thousand instances, instances which are related in these papers which I hold in my hand and given over to me by a responsible person, pointing the other way. It may be necessary for these papers to be referred to either by one Member or another later on at the time of the third reading of the Bill, when Mr. Sorley will find to his utter surprise and disappointment that instances of police oppression are more frequent, far more frequent than instances of police being oppressed, as my friend, who has been briefed for the Government, Captain Lal Chand, tries to impress upon this House.

Now, there is one other thing I wish to say with reference to this. He has been pleased to say that the extra expense should be borne by those who are guilty of breaking a law of this nature. I would invite my Honourable friend's attention to what is being done in my own unhappy province of Bengal under the provisions of Ordinance law. At Chittagong, they have been fined Rs. 80,000,—so he need not advise the Government as to what they should do. They know what to do and what not to do. My Honourable friend has also expressed the hope that Government will take due notice of such public servants as transgress the law. Sir, I wish that were so, as not in one instance but in countless instances they try to shield the offender and at times encourage them by promotion and titles. That being so, I beg to submit that to invest any officer in charge of a police station with the power to institute complaints against having transgressed this clause is something to which we cannot be a party and I do oppose it and support the deletion of this clause.

The Honourable Mr. H. G. Haig (Home Member): Sir, the amendment before the House proposes the deletion of one of the most vital clauses of this Bill, for, as Honourable Members are well aware, the method of picketing, against which this clause is aimed, is perhaps the most

[Mr. H. G. Haig.]

characteristic and the most effective of those methods by which the Congress movement of civil disobedience is being supported and continued. It is, in fact, in our opinion, a most powerful engine of tyranny. I need not enlarge on the details which are well-known to Members of this House. The facts were given in a convincing way yesterday by my Honourable friend, Mr. Sorley. It has been suggested that while certain undesirable conditions may attend this picketing, these are accidental, that they are not part of the policy which underlies the movement. Well, I must entirely deny that suggestion. The manifestations which attend picketing lie at the root of this method. They are precisely the manifestations which picketing is intended to produce and invariably does produce. As Mr. Sorley explained to the House yesterday, one of the most common things is that when picketers stand in front of a shop, crowds collect, and, through the presence of those crowds, that species of intimidation and coercion is applied to the shopkeeper which the Congress people intend should be applied. But there are also more subtle methods: the picketers stand sometimes in front of a shop to watch what happens, and both the customers and the shopkeepers know perfectly well what that watching is intended to lead up to. What happens is always reported to the headquarters of the Congress organization. It is a species of spying of what goes on with a view later on to applying further methods of coercion to those who have dared to disregard the orders of this unlawful organization.

Mr. D. K. Lahiri Chaudhury (Bengal: Landholders): The same is the case with the C. I. D. men when they loiter.

The Honourable Mr. H. G. Haig: Well, Sir, what we wish to prevent by enacting this clause is action which goes beyond plain argument or persuasion. It has been alleged by a number of Honourable Members that in fact, if this clause is passed into law, people will be unable to conduct the ordinary methods of propaganda. That was the point that appeared to weigh with my Honourable friend, the Leader of the Nationalist Party. He said the Swadeshi or the temperance movement might be handicapped because people were not allowed to use, in furtherance of them, the methods of picketing. But, Sir, surely all the ordinary methods of propaganda are still open to those who believe in these

movements. They can advocate Swadeshi or temperance by 1 P.M. speeches; they can advocate them by the distribution of pamphlets. The story which my Honourable friend, Mr. Mitra, mentioned to us this morning is one which appears to me to have no bearing on the actual terms of this clause. Under the terms of this clause, it is no offence to distribute pamphlets in favour of Swadeshi or anything else. It is no offence at all. It is no offence to write articles in the newspapers or hold meetings to conduct any ordinary, normal, straightforward propaganda. What is an offence is to go beyond the ordinary methods of reasonable persuasion and to attempt in whatever way to coerce people, to intimidate them, to annoy them, to pester them into agreeing with you when you are unable to convince their intellects.

Now, Sir, my Honourable friend, Mr. Aggarwal, taking, I think, too modest a view of his own capabilities, made the same point and suggested that no propaganda was permissible under this clause. It is nothing of the sort. Under this clause, Mr. Aggarwal is perfectly at liberty to

persuade in his very convincing language everybody he can. What he is not permitted to do is, having failed to persuade them, to follow them about, to stand in front of their houses, to threaten them, to intimidate them. And why should he wish to adopt these methods? Can he not be content with his own persuasive tongue? We know, Sir, that the Congress is not content with persuasion. We know, if Honourable Members did me the honour of listening the other day when I read out an extract from the Bombay Congress Bulletin, that their object is, in the first place, if they can, to persuade, but everybody is aware that behind that primary intention of persuasion lies the resolution to force their opinion on other people if they cannot persuade them. They said so in the plainest language in that Bombay Congress Bulletin; failing persuasion, they adopt direct action. It is that mentality which is at the root of all this picketing. They start off by an action which, on the face of it, looks harmless. Everybody knows that if they do not agree or fall in with the policy of the Congress, then they are going to be coerced by them in one way or the other. Sir, what we have in this clause is merely a prohibition of the element of coercion.

Now, Sir, there are certain safeguards attached to this clause of which little mention has been made. In the first place, we recognise that provisions of this nature are unusual. They would not be required if there were not in existence a definite attempt on the part of a certain section of the community to force other people to their own will. We have, therefore, provided that this clause should not come into operation except in an area in which the Local Government may direct that it should come into force. That means, Sir, that unless these methods are being followed on an organised scale, the picketing clause will not be in operation and, therefore, a great many of the imaginary cases with which we have been entertained will not and cannot possibly arise. In the second place, we have provided in sub-clause (2) of this clause that no Court shall take cognizance of an offence except upon a report in writing made by a police officer. Now, the object of that provision is that the terms of this clause should not be utilised by private persons who may have a grudge to annoy other private persons. It might be that if we had not this particular safeguard, the Courts might be asked to investigate various frivolous complaints made by one individual against another merely for the purpose of annoyance. We have, I think, by this sub-clause provided against that contingency.

Sir, there has been much criticism of the *Explanation* which was added to the clause. I must make it plain at once that that *Explanation* was not added at the instance of Government and that Government would not be seriously upset if that *Explanation* were deleted from the clause. We were asked by those who felt that it was an advantage to have this plain statement of policy, we were asked by them to include this *Explanation* in the clause and we have no objection to doing so if the House so desires, but I quite agree with the Honourable Members who have criticised the *Explanation*. It does not add very much to the meaning of the clause. (Hear, hear.) The real point which we want to establish is that the advocacy of Swadeshi, of temperance or of any cause by legitimate methods is not in any way affected by this clause, but picketing appears to me not to be a legitimate method. I admit that Honourable Members opposite can talk to me, can persuade me with their eloquence, but why should they persistently follow me about? Why should

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[Mr. H. G. Haig.]

they beset me in my house because I do not agree with them? I call that, Sir, an intolerable interference with my liberty. I oppose the amendment.

Mr. President: The question is:

"That clause 7 of the Bill be omitted."

The motion was negatived.

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

The Assembly re-assembled after Lunch at Twenty Minutes Past Two of the Clock, Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

Mr. N. N. Anklesaria (Bombay Northern Division: Non-Muhammadan Rural): Sir, I move:

"That in sub-clause (1) of clause 7 of the Bill, after the word 'Whoever' the words 'wrongfully or without any legal authority' be inserted."

After the insertion of these words the clause will read as follows:

"Whoever *wrongfully or without any legal authority* with intent to cause any person to abstain from doing or to do any act which such person has a right to do or to abstain from doing, obstructs or uses violence to or intimidates" . . . etc., etc.

The object of this amendment is to take away from the purview of the clause certain, what I may call, beneficent kinds of obstruction or annoyance or lawful kinds of obstruction and annoyance. I see the Honourable the Law Member smiling at my saying beneficent forms of obstruction or annoyance and at the first blush it does sound a bit absurd, but when I give instances of what beneficent annoyance and malignant annoyance may be, I think the laugh will be on my side. Supposing my son desires to go to a meeting of non-co-operators and I am strongly against non-co-operation and I obstruct my son from going to that meeting, I come within the purview of this clause, because my son has got a perfect right to go to a meeting of non-co-operators and I obstruct him and intimidate him in order that he may not go to that meeting. From my point of view this obstruction or intimidation is beneficent in the interests of my son. Take, again, the instance which I have given in my Minute of Dissent. I obstruct my son from going to a house of ill fame. Though this is obstruction beneficent in the interest of my son from all points of view, I come within the purview of this clause. Then there are kinds of obstruction, annoyance and intimidation which are lawful. For instance, a police man meets me at the railway station and says "I suspect you have got contraband opium in your luggage and I want to search you". He is obstructing me from going my way. Under this clause the policeman can be hauled up, because he annoys, intimidates or obstructs me from proceeding on my way. In order to take away these beneficent and lawful kinds of obstruction from the purview of this clause, I have proposed this amendment.

Sir, if you read the clause you will find that the only intent mentioned in this clause is intent to cause any person to abstain from doing or to do any act which such person has a right to do or abstain from doing. I shall, therefore, in obstructing my son, in the instance of the son I have given, do the act, or the policeman obstructing me in the instance I have given does that act with the sole intent of making the person obstructed abstain from doing what the person obstructed has a perfect right to do. There is no other intent in the obstructor or the annoyer or the intimidator. Therefore, I say, this is a perfectly reasonable amendment and I hope the Government will be reasonable as regards this amendment. It might be said, you are creating difficulties for the prosecution. But these words—"wrongfully or without any legal authority"—I have taken from the English Law on the subject from which more or less this clause has been bodily taken. In the English Act, these words—"wrongfully or without any legal authority"—do occur, and this English Law has been the Law of England since 1825 to our present day and it was remodelled in 1927. If the English Judges, the English police and English Government do not find any difficulty in administering that law, I do not think that difficulty can possibly stand in the way of our Indian Government extending protection to innocent persons as suggested in my amendment. I am conscious of the unconscionable amount of time we have taken in discussing this Bill and, therefore, to set an example, I shall conclude my speech without any further remarks.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Amendment moved:

"That in sub-clause (1) of clause 7 of the Bill, after the word 'Whoever' the words 'wrongfully or without any legal authority' be inserted."

The Honourable Sir Brojendra Mitter (Law Member): Sir, my Honourable friend, Mr. Anklesaria, is super-subtle in moving this amendment. He says that it is no answer to say that it will be creating difficulties for the prosecution. That is not my answer; my answer is that in such a case, as he contemplates, there will be no prosecution. Therefore, no question of difficulty arises, and I will tell you why. His point is that he wants to exclude from the operation of the Act beneficent obstruction as a father obstructing his son with the intent of preventing the son from doing something naughty. If that be so, does not the principle of law embodied in section 95 of the Indian Penal Code come in?

Mr. N. N. Anklesaria: It does not apply to special laws, as I said yesterday, according to a Madras High Court decision.

The Honourable Sir Brojendra Mitter: I did not say section 95 would apply; I said the principle embodied in that section which is a principle of general application. In the Penal Code there are many sections which embody general principles of criminal law; in order to make the code self-sufficient and self-contained, those principles are embodied in sections. Sir, the principles embodied in those sections are of universal application, and the principle to which I appeal is the principle embodied in section 95:

"Nothing is an offence by reason that it causes, or that it is intended to cause, or that it is known to be likely to cause, any harm, if that harm is so slight that no person of ordinary sense and temper would complain of such harm."

[Sir Brojendra Mitter.]

When a father obstructs his son with the intention of preventing him from doing something mischievous, then the harm caused to the son is of such a character that no person would think of making a serious complaint of it. That being so, the principle of law which is embodied in section 95 comes into play and no prosecution can succeed. Therefore, the apprehension which my Honourable friend has in mind is more imaginary than real. I oppose the amendment.

Mr. N. N. Anklesaria: But you punish me under clause 8 for not preventing my son from going to a non-co-operation meeting.

The Honourable Sir Brojendra Mitter: That is another thing.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in sub-clause (1) of clause 7 of the Bill, after the word 'Whoever' the words 'wrongfully or without any legal authority' be inserted."

The motion was negatived.

Mr. S. C. Mitra: Sir, I beg to move.

"That in sub-clause (1) (a) of clause 7 of the Bill, the words 'or loiters at or near place where such person or member or employed person resides or works or carries on business or happens to be,' be omitted."

In moving this amendment, I do not like to make any speech. I simply refer to a fact to which my attention was drawn by my friend, Mr. Pandian, that the other day a blind man was sentenced to six months' imprisonment. He was probably loitering at or near a place and the old man being blind could not perhaps run very fast or walk fast and so he was punished. The wording is so loose and the word "loiters" may be taken in such a wide sense that it will make the whole clause ridiculous. I think Government may still consider whether they should accept the amendment and omit such objectionable features from the Bill.

The Honourable Mr. H. G. Haig: Sir, the story to which we have just listened from my Honourable friend is difficult to understand.

Mr. S. C. Mitra: It was reported in the papers.

The Honourable Mr. H. G. Haig: My Honourable friend no doubt considers that that gives it authenticity. I say it is difficult to understand, because this blind man was apparently doing nothing except getting along the road as fast as his blindness permitted. But, Sir, the section says that the act of loitering must be done with a definite intention; and what I should like to know from my Honourable friend, Mr. Mitra, is how the Court arrived at the conclusion that the intention of the blind man was to cause a person to abstain from doing some act which he had a right to do. It is of course well known that one of the common practices of picketers, that is, picketers who have not lost their sight, is to loiter in front of a shop or place with that definite intention. And when they have performed that act with that intention, it is reasonable that they should be punished.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in sub-clause (1) (a) of clause 7 of the Bill, the words 'or loiters at or near a place where such person or member or employed person resides or works or carries on business or happens to be,' be omitted."

The motion was negatived.

Mr. S. C. Mitra: Sir, I beg to move:

"That in sub-clause (1) (a) of clause 7 of the Bill, after the words 'or loiters' the words 'in spite of protest' be inserted."

The meaning of my amendment is quite clear. If the man is obstructed or hindered in any way, let him protest against it. Without even any protest from the persons who suffer I think the offender should not be proceeded against. So I want to add that at least the man who is likely to suffer should make some protest before the law is put into operation against the offender.

Mr. B. V. Jadhav: Sir, I rise to support this amendment. I think Mr. Serley will bear me out when I say that in the non-co-operation campaign in Bombay when picketing was going very strong, two European shops were picketed in that city; one was Whiteaways and the other was Evans Fraser. Whiteaways protested against the picketing and there was a good deal of rioting and a number of volunteers were arrested and taken to the police chowki almost every day. But Evans Fraser did not mind the picketing; they offered them chairs at their doors. The picketers were seated on those chairs and everything went on quietly there; there was no trouble, and the police also showed some sense in not arresting those people. We have seen in the city of Bombay *desha-sevikas* sitting in chairs at shops, which sold foreign goods, and spinning on their *takkis*. There also there was no protest from the shopkeepers, and, therefore, such cases of picketing ought not to be minded by the police. But there is no provision for that in this drastic Bill, and whether the shopkeeper protests or not, under the wording of the present clause, every picketer is liable to be hauled up by the police before a Court of law and punished. Therefore, I think it will not be right. If there is a protest from the man molested, then there will be some justification for bringing such molesters under the clutches of the law; but, if there is no protest, then there ought to be no prosecution and for that purpose I heartily support the amendment moved by my friend, Mr. Mitra.

Pandit Satyendra Nath Sen: Sir, I rise to support the amendment. It seems to be very reasonable. Protest from the person who is alleged to have been obstructed or aggrieved in any way should be regarded as the crucial test for the commission of the offence. If there is no protest from the person molested, then why should there be any prosecution at all? I thank my friend, Mr. Mitra, for his suggesting such a simple expression which will go a great way in improving the clause which has been so badly drafted as I have already said. If such a safeguard is not added, this clause is sure to be manipulated by the police against persons who are not in the good books of the Government. So I support the amendment.

The Honourable Mr. H. G. Haig: Sir, we are dealing with a system which really amounts to mass intimidation and it is characteristic of those conditions that individuals are afraid to come forward openly and protest against the pressure that is being brought to bear on them. If that were not the case, if individuals were prepared with more courage to face this kind of compulsion which it is sought to bring to bear on them, there would be far less necessity to enact this clause at all. But it is precisely because individuals are afraid to assert themselves against this species of mass intimidation that it is necessary for the law to give them this protection. My Honourable friend, Mr. Jadhav, made the point extremely clear in his illuminating contribution. He reminded us that when Whiteaway Laidlaws' shop was being picketed in Bombay, the proprietors had the temerity to protest, and what happened? The result was that the Congress redoubled their efforts, that they made a very special point of picketing Whiteaway Laidlaws' shop with all their forces, of collecting large crowds, creating disturbances and in fact in every way increasing their efforts to intimidate. If that is, as we all know it is, an actual statement of the facts, is it reasonable to suggest that people who are picketed in this way will be prepared to come forward and say: "We protest and we ask for your protection"? If these words were inserted, I think the main object of the clause would be defeated.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in sub-clause (1) (a) of clause 7 of the Bill, after the words 'or loiters' the words 'in spite of protest' be inserted."

The motion was negatived.

Mr. S. C. Mitra: Sir, I move:

"That in sub-clause (1) (a) of clause 7 of the Bill, the words 'or happens to be' be omitted."

This particular part of the clause reads like this:

"or loiters at or near a place where such person or member or employed person resides or works or carries on business or happens to be."

I would like by my amendment to omit this portion "or happens to be". Even if it is necessary to provide against loitering in all these places where a person resides or works or carries on business, why this particular phrase "or happens to be" should be added? I think it is absolutely unnecessary. The anxiety that this Government are showing for protecting British trade interests is not at all proportionate to their cares for the interests of the unemployed or the poverty-stricken of this poor unhappy land. Why this phrase should so vaguely be put that any person who may happen to be anywhere there should not be anybody to loiter about? I suggest that at least these words "or happens to be" be omitted.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Amendment moved:

"That in sub-clause (1) (a) of clause 7 of the Bill, the words 'or happens to be' be omitted."

Mr. B. V. Jadhav: Sir, I support the amendment.

The Honourable Mr. H. G. Haig: Sir, we have heard this morning some criticism of the drafting abilities of the Government of India. This is, I think, a drafting point and perhaps the House will be interested to hear that these words to which my Honourable friend, Mr. Mitra, objects are taken directly from the English Trade Disputes Act which reads:

"watches or besets the house or other place where such other person resides or works or carries on business or happens to be."

I think in order to make the provision comprehensive it is necessary to have those words.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in sub-clause (1) (a) of clause 7 of the Bill, the words 'or happens to be' be omitted."

The motion was negatived.

Mr. S. C. Mitra: Sir, I move:

"That in sub-clause (1) (b) of clause 7 of the Bill, after the word 'loiters' the words 'in spite of protest' be inserted."

This is a similar amendment which I proposed about sub-clause (1) (a), and I would like a similar provision in sub-clause (b) also and so I suggest these words might be inserted here.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Amendment moved:

"That in sub-clause (1) (b) of clause 7 of the Bill, after the word 'loiters' the words 'in spite of protest' be inserted."

Mr. B. V. Jadhav: Sir, I support this amendment. I may point out that in Bombay when picketing was going on very strong, some liquor shopkeepers encouraged the pickets to stand at their doors in order to claim a refund from the excise authorities or to get the shop at a lower licence fee. In such circumstances, it is the shopkeepers who ought to be hauled up before the Court and not the innocent picketers. For this reason the words "in spite of protest" are very necessary for their safety. I, therefore, support this amendment.

The Honourable Mr. H. G. Haig: Sir, I have already dealt at some length with the general arguments which apply to this amendment. With regard to what was said by my Honourable friend, Mr. Jadhav, I understand that these liquor shopkeepers somewhat dishonestly encourage picketers to come and stand in front of their shops so that they can recover from the Government the licence fees they have paid. May I point out to him that if the words "in spite of protests" are inserted, it is perfectly obvious that these liquor shopkeepers will not make a protest and, therefore, the Government will be unable to stop this picketing and will infallibly be put to the loss which my Honourable friend desires to spare them?

Mr. B. V. Jadhav: May I point out that in that case the Government will say "well, you have not protested and so you do not deserve any rebate".

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question which I have to put is:

"That in sub-clause (1) (b) of clause 7 of the Bill, after the word 'loiters' the words 'in spite of protest' be inserted."

The motion was negatived.

Mr. S. C. Mitra: Sir, I move:

"That in sub-clause (1) (b) of clause 7 of the Bill, the words 'or does any similar act' be omitted."

The sub-clause reads like this:

"loiters or does any similar act at or near the place where a person carries on business."

Sir, I hope the Honourable the Home Member in his reply will give us some instances of what he means by "does any similar act" and also about loitering. The example of English law is quite good, but are we following the English Government in other ways also? For the repressive laws we are to follow England, and for beneficial actions we are to follow the examples of other countries. Sir, I move that these words be omitted.

Mr. N. R. Gunjal (Bombay Central Division: Non-Muhammadan Rural): (Speaking in the vernacular, the Honourable Member supported the amendment.)

The Honourable Mr. H. G. Haig: Sir, this is one of the cases in which in deference to the views of the Select Committee we made the provisions rather more precise than they were in the original Bill. If my Honourable friend, Mr. Mitra, looks at the original Bill, he will find that it was provided that "anybody who loiters at or near a place or does any other act which may have a like effect", we have introduced into the Bill the words "does any similar act". What we had in mind were acts of the nature, for instance, of lying down, or a practice which we were told was quite commonly adopted of having a number of persons continuously walking past a shop that was being picketed just like a stage crowd which marches across the stage and goes behind and comes and marches in front again. Acts of those kinds might not be covered specifically by the word "loiters" and as it is impossible to foresee all the ingenious plans that may be adopted by the picketers we thought it was desirable, and it is essential, to include a general expression of this nature "does any similar act".

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question which I have to put is:

"That in sub-clause (1) (b) of clause 7 of the Bill, the words 'or does any similar act' be omitted."

The motion was negatived.

Mr. N. N. Anklesaria: Sir, I move:

"That to sub-clause (1) of clause 7 of the Bill, the following Proviso be added:

'Provided that nothing in this section shall be deemed to apply to any act which is done without any coercive intent or which is not calculated to cause and does not cause any obstruction, violence, intimidation, alarm or annoyance to any person'."

Sir, if the bare statement of this amendment does not commend itself to the Treasury Benches, I do not think from my experience of the last so many days that any more words from me would make any difference. With these words I commend this amendment to the House. (Laughter.)

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That to sub-clause (1) of clause 7 of the Bill, the following Proviso be added:

'Provided that nothing in this section shall be deemed to apply to any act which is done without any coercive intent or which is not calculated to cause and does not cause any obstruction, violence, intimidation, alarm or annoyance to any person'."

The motion was negatived.

Mr. N. N. Anklesaria: Sir, I move:

"That the *Explanation* to sub-clause (1) of clause 7 of the Bill be omitted."

I think, Sir, this amendment at least will commend itself to the Government.

The Honourable Mr. H. G. Haig: Sir, I explained in my speech this morning that this *Explanation* was not inserted at the instance of Government, and if it is the wish of the House that it should be deleted, we shall raise not the slightest objection. ("Hear, hear" from several parts of the House.)

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question which I have to put is:

"That the *Explanation* to sub-clause (1) of clause 7 of the Bill be omitted."

The motion was negatived.

Mr. B. V. Jadhav: Sir, I move:

"That for the *Explanation* to sub-clause (1) of clause 7 of the Bill, the following be substituted:

Explanation.—Peaceful persuasion or inducement which does not or is not calculated to involve any obstruction, violence, intimidation, annoyance or alarm to any person does not come within the purview of this section'."

Sir, I do not think there is any necessity of an elaborate argument in support of this motion. I think Government ought to accept it, but from the way in which they have treated the amendment of my friend, Mr. Anklesaria, I have got very meagre hopes. Sir, I hope the House will support me.

Mr. S. C. Mitra: Sir, I support this amendment moved by my friend, Mr. Jadhav, and I also congratulate the Honourable the Leader of the House for not raising any objection on a point of order to moving this clause, because it was on this very same clause, exactly word for word, we quoted in this amendment, that we had to come out of the Select Committee when the Honourable the Law Member ruled it out of order. However, when that question has not been raised, I do not like to dilate upon it now. We should like to have a categorical answer from the Honourable the Home Member whether he

[Mr. S. C. Mitra.]

will allow peaceful picketing to be continued as regards indigenous industries, temperance or in any other matter. That will make our position clear. We like to have a definite reply on this point. We agreed that any picketing that involves obstruction, violence, intimidation, alarm or annoyance of any kind can be taken exception to, but if it is merely persuasion not involving any of these elements, I want to know if such peaceful picketing will be permitted by the Government. With these words, I support this amendment.

Mr. Lalchand Navalrai: Sir, I heartily support this amendment. That picketing is permissible cannot be denied. That peaceful picketing is allowed by law and by practice cannot also be denied. Therefore, to make a clause or to enact a section without drawing a line of demarcation between violent and non-violent picketing would be meaningless and will serve no purpose. It is not at all difficult to draw such a line. From the present clause itself we find that a difference can be deduced between picketing which is harmless and picketing which is harmful. The Honourable the Home Member himself, as I understand him, clearly said that the use of persuasion in picketing is not an offence covered by this clause.

The Honourable Mr. H. G. Haig: I did not say in picketing. I said persuasion.

Mr. Lalchand Navalrai: Persuasion is no offence, then if a man simply stands out and then persuades,—picketing means something like standing out as a sentinel—or if he stands inside and makes persuasion, what difference does it make? Excesses may be punished, and a line can always be drawn in that direction. Picketing has stages. It begins like this. One or two men come and stand at the door of a shopkeeper. The man offers no objection, no protest is made from any quarter. They simply stand outside to influence. That is the first stage of picketing. The second is followed by the men beseeching or making entreaties. The third stage is when they persuade by means of lecturing or putting forward arguments in order to bring the man round. A line can be drawn here, and if any further proceedings are taken, such as catching hold of the man or his property, or intimidating him or insulting him, let these be made punishable. It has been said that if you draw a line of demarcation, it is likely to be crossed over, and the picketers will drift into using force or violence. That is exactly what I say that if excesses of that character happen, they come under the Act, and can be punished, but it cannot be said that simply because a particular law will be infringed, it should not be made at all. Make an enactment and punish the man if he exceeds the legal bounds, but don't punish an innocent man. Yesterday, Mr. Sorley, in an eloquent and able speech, gave certain instances of how this picketing was done in Guzerat. It would have been creditable to him and probably he would have gained the applause of this side of the House also if he had honestly and impartially come forward with instances of how the police acted in instances, where he must have seen that picketing drifted into violence owing to the aggressiveness of the police. I put him a direct question if he has not seen any such instances. I think every District Officer has seen such happenings. I submit, therefore, that there are instances where the police

have been the aggressors and have been responsible for converting peaceful picketing into violent picketing. The picketer simply stands at the door. A policeman passes by. No complaint is made to him, yet he puts on a face and says: "Why do you stand there?" The man replies: "I am standing here by my own right." The policeman loses himself and directs: "Go away", and not unoften assaults. The picketer turns round and also becomes violent in self-defence. Have not such cases happened? We have ourselves seen them. Therefore, to say that peaceful picketing should not be allowed, because it will run over the borders is no argument based upon any sense. I think the Congressmen themselves have not been taught by the Congress or by Mahatma Gandhi to do violent picketing. If the Government now put in a clause that peaceful picketing is no offence, then it will be as ordained by Mahatma Gandhi, and the Congressmen will realise that Government have also drawn a line of demarcation which should not be transgressed. At present they think that whether picketing is done violently or peacefully, it is the same thing; when they are prepared to go to jail; but if Government come round and draw a line of demarcation, the Congressmen will appreciate Government's action and will not go beyond the limits. With these words, I support the motion.

Mr. T. N. Ramakrishna Reddi (Madras ceded Districts and Chittoor: Non-Muhammadan Rural): I have given notice of a similar amendment, No. 55 in the new list. I want to know if I will be called upon to move that amendment. If not, I will speak on this.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): It is not exactly the same. The Honourable Member can move it when his turn comes.

Sardar Sant Singh (West Punjab: Sikh): I support this amendment, though not very heartily like the previous speakers. (Laughter from the Government Benches.) The Government Benches will not be laughing when they have heard me through. The point is this, Sir. Picketing of all sorts has been made an offence under this clause. The Mover of this amendment wants to exclude peaceful picketing. This weapon should be allowed to remain in the hands of the people for the benefit of the administration. If it were a Government of the country by the people, in that case laws could be enacted to punish a man who acted in a manner prejudicial to the best interests of his country. But we cannot forget that the country is being governed by aliens. Unfortunately there are Indians who deliberately act in a manner highly obnoxious to their countrymen in order to win the favours of the alien bureaucracy for themselves. In such cases, there are two courses open to the people, viz., either to resort to violence against the person or property of such person, or adopt peaceful methods, non-violent methods to bring him round and make him realise the consequences of his evil ways. Violent methods are out of place. The Congress does not recognise them; the country does not want them. We are here to condemn those methods. The only methods then left are peaceful methods. But the Government do not seem to allow the adoption of even peaceful methods. What is to be done then? Sir, Austin, the greatest English Jurist, supplies us with the answer. After discussing the fundamental functions of a Government the great jurist says that when a Government ceases to function for the welfare of its subjects, a right arises in the subjects to rebel against such a Government. All know, Sir, that rebellion is an evil. It brings in its train

[Sardar Sant Singh.]

undescribable hardships. But the people have to make a choice between tolerating bad laws or evils of rebellion. Evils of the rebellion last only for a short time, while the evil inflicted by bad laws are more lasting and leave a permanent scar, and that is why rebellion is justified by Austin in certain circumstances. I would request my Honourable friends, the Law Member and the Home Member, to read Austin a second time. In the light of the second reading, they are requested to reconsider the position whether safety valves should not be kept. It is in their own interest and in our interest as well that violence should be eliminated and condemned. If such innocent acts are excluded, what are the people to do? You are sure to drive them to violence. It cannot be denied, Sir, that people are getting impatient. They have lost all confidence in the present administration. What do the Government want? Do they want to win back the confidence of the people or to further alienate them? Sir, the amendment says:

"Peaceful persuasion or inducement which does not or is not calculated to involve any obstruction, violence, intimidation, annoyance or alarm to any person does not come within the purview of this section."

This amendment is circumscribed by many qualifications. What more safeguards do Government want? If the Government do not take a broad view of the situation at the present time, my submission is that they will not succeed in discouraging the civil disobedience movement, and that they will on the contrary be encouraging it. With these words, I support this amendment.

Rao Bahadur B. L. Patil (Bombay Southern Division: Non-Muhammadan Rural): Sir, Government say that Congress workers are aggressive. On the other hand, the Opposition Members have said that it is more often the police who are aggressive; but let me bring to the notice of the Honourable the Home Member that this modest amendment does not in any way affect the Government point of view. It is unaggressive and it meets the point of Government as well. Therefore, in my humble opinion, I request the Home Member to yield to the suggestion of the Opposition. At the same time I should like to raise my little finger of warning. If this amendment is not accepted, the countryside will think that the Government are not sincere in what they say. Government have said that they have no objection if the picketing is peaceful if it does not involve any acts of violence and if the picketers do not resort to force. I think the words coming from Government are hollow and there is no sincerity behind them. Let me also tell them that the masses are not so ignorant as not to understand what is picketing meant for and what is Swadeshi and for whose benefit the Swadeshi movement is being carried on in this country. The masses are competent to understand what is peaceful picketing and what is not peaceful picketing. If Government deprive the social workers of even this right of approaching their fellow citizens with certain economic propaganda, I am sure the verdict of the masses will go against the Government and hereafter the Government may take it from me that they will alienate the sympathies of the masses. I come from the rural districts. I have had talks with several moderately educated villagers. I know for certain that they have begun to understand what Swadeshi means and why picketing is done. Therefore, in my own humble way, I request Government to think well and allow better sense and wisdom to prevail and accept this amendment.

Diwan Bahadur Harbilas Sarda (Ajmer-Merwara: General): As I understand it, there is no question of picketing involved in this amendment. The amendment is:

"Peaceful persuasion or inducement which does not or is not calculated to involve any obstruction, violence, intimidation, annoyance or alarm to any person does not come within the purview of this section."

I do not think there can be any reasonable objection to its acceptance. If this clause is to be strictly enforced, I think the first victims will be the Honourable the Home Member and the Honourable the Law Member. They have been all these days trying peacefully to persuade us to vote for this Bill and we have a right to vote against this Bill. If this clause is to be strictly enforced, without regard to persons in high places, then my friends on the opposite benches will be liable to be prosecuted and punished. I do not want this to be done. I hope they will reconsider their decision and accept this amendment.

The Honourable Sir Brojendra Mitter: What does this amendment mean? The amendment says:

"Peaceful persuasion or inducement which does not or is not calculated to involve any obstruction, violence, intimidation, annoyance or alarm to any person does not come within the purview of this section."

Who ever suggested that it does come within the purview of this clause? That is what I should like to know. The clause, as it stands, means this that in order to constitute the offence of molestation, two elements are necessary, first of all an intent to coerce and, secondly, some overt act and four categories of overt acts are mentioned in the clause. The first category is obstruction, violence or intimidation. The second category is loitering. The third category is what is known as besetting and the fourth is injury to property. In order that an offence can be established, there must be first of all the intention to coerce and, secondly, some overt act which comes under any of the four categories mentioned. I shall confine my observations to the first category, that is obstruction, violence or intimidation. What the amendment says is this,—that an overt act which does not amount to obstruction, violence or intimidation is not an offence. Of course it is not an offence. The clause does not say it is an offence. Sir, two more expressions are used in this amendment. The words "obstruction, violence, intimidation" are covered by the first category I have mentioned. Then two other words are used,—"annoyance or alarm". Now, alarm certainly is included in the first category, because "alarm" follows "intimidation". Then as regards "annoyance", obstruction, violence or intimidation may cause annoyance, loitering may cause annoyance and besetting may cause annoyance. Therefore, all the five things which the amendment says should not be an element in the offence are already dealt with in the clause itself. That being so, the amendment is, Sir, in my opinion, absolutely meaningless and unnecessary. I oppose the amendment.

Mr. N. R. Gunjal: (Speaking in the vernacular, the Honourable Member supported the amendment.)

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That for the *Explanation* to sub-clause (1) of clause 7 of the Bill, the following be substituted:

Explanation.—Peaceful persuasion or inducement which does not or is not calculated to involve any obstruction, violence, intimidation, annoyance or alarm to any person does not come within the purview of this section."

The Assembly divided:

AYES—30.

Abdur Rahim, Sir.
Aggarwal, Mr. Jagan Nath.
Azhar Ali, Mr. Muhammad.
Badi-uz-Zaman, Maulvi.
Chandi Mal Gola, Bhagat.
Chetty, Mr. R. K. Shanmukham.
Dutt, Mr. Amar Nath.
Gour, Sir Hari Singh.
Gunjal, Mr. N. R.
Iara, Chaudhri.
Jadhav, Mr. B. V.
Jog, Mr. S. G.
Lalchand Navalrai, Mr.
Liladhar Chaudhury, Seth.
Maswood Ahmad, Mr. M.
Misra, Mr. B. N.

Mitra, Mr. S. C.
Murtuza Saheb Bahadur, Maulvi
Sayyid.
Parma Nand, Bhai.
Patil, Rao Bahadur B. L.
Reddi, Mr. T. N. Ramakrishna.
Sadiq Hasan, Shaikh.
Sant Singh, Sardar.
Sarda, Diwan Bahadur Harbilas.
Sen, Mr. S. C.
Sen, Pandit Satyendra Nath.
Sitaramaraju, Mr. B.
Thampan, Mr. K. P.
Uppl Saheb Bahadur, Mr.
Ziauddin Ahmad, Dr.

NOES—56.

Abdul Hye, Khan Bahadur Abul
Hasnat Muhammad.
Acott, Mr. A. S. V.
Ahmad Nawaz Khan, Major Nawab.
Allah Baksh Khan Tiwana, Khan
Bahadur Malik.
Amir Hussain, Khan Bahadur Saiyid.
Anwar-ul-Azim, Mr. Muhammad.
Bajpai, Mr. G. S.
Bhore, The Honourable Sir Joseph.
Bower, Mr. E. H. M.
Burt, Mr. B. C.
Dalal, Dr. R. D.
Dunn, Mr. C. W.
Dutt, Mr. G. S.
Fazal Haq Piracha, Shaikh.
Fox, Mr. H. B.
Graham, Sir Lancelot.
Greenfield, Mr. H. C.
Gwynne, Mr. C. W.
Haig, The Honourable Mr. H. G.
Hazlett, Mr. J.
Hudson, Sir Leslie.
Ishwarsingji, Nawab Naharsingji.
Ismail Ali Khan, Kunwar Hajee.
Ismail Khan, Haji Chaudhury
Muhammad.
James, Mr. F. E.
Jawahar Singh, Sardar Bahadur
Sardar.
Lal Chand, Honv. Captain Rao
Bahadur Chaudhri.
Mackenzie, Mr. R. T. H.

Macqneen, Mr. P.
Meek, Dr. D. B.
Metcalf, Mr. H. A. F.
Mitter, The Honourable Sir
Brojendra.
Moore, Mr. Arthur.
Morgan, Mr. G.
Mukherjee, Rai Bahadur S. C.
Nayudu, Rao Bahadur B. V. Sri Hari
Rao.
Noyce, The Honourable Sir Frank.
Rafuddin Ahmad, Khan Bahadur
Maulvi.
Raghubir Singh, Kunwar.
Rajah, Rao Bahadur M. C.
Rau, Mr. P. R.
Ryan, Mr. T.
Sarma, Mr. R. S.
Schuster, The Honourable Sir George.
Scott, Mr. J. Ramsay.
Sher Muhammad Khan Gakhar,
Captain.
Singh, Kumar Gupteshwar Prasad.
Singh, Mr. Pradyumna Prasad.
Smith, Mr. R.
Sorley, Mr. H. T.
Suhrawardy, Sir Abdulla-al-Mamda.
Tottenham, Mr. G. R. F.
Wajihuddin, Khan Bahadur Haji.
Yakub, Sir Muhammad.
Yemin Khan, Mr. Muhammad.
Zulfikar Ali Khan, Sir.

The motion was negatived.

Mr. T. N. Ramakrishna Reddi: Sir, I beg to move the following amendment standing in my name:

"That to sub-clause (1) of clause 7 of the Bill, the following further Explanation be added:

"Explanation.—Peaceful picketing, peaceful persuasion, peaceful argument for the purpose of promoting indigenous Swadeshi products and peaceful picketing of toddy, arrack and ganja shops, without involving obstruction, violence or intimidation to any person does not come within the purview of this section."

Sir, with regard to the amendment that has just been defeated, Government took shelter on the protest that the *Explanation* is covered by the clause itself as all the ingredients in the *Explanation* are contained in the original clause itself and, therefore, the *Explanation* is unnecessary. On the previous amendment, Government argued that peaceful persuasion and inducement might be carried on not only for the purposes of developing Swadeshi enterprise, but also they might be carried on for the purpose of asking persons to join the Congress and many other subvertive activities. That is the reason why Government opposed that amendment. They feared that it would have opened the way for persons to carry on the Congress propaganda. But my amendment confines only to two particular activities. One is the encouragement of Swadeshi products and another is to dissuade people from taking to toddy and ganja. These are the only two activities that this amendment is directed against. Sir, the Government have again and again stated that they have absolutely no objection for carrying on any propaganda for the advocacy of Swadeshi or indigenous goods. It is clear from the minute attached to the Bill itself. They have stated that this clause is not intended to hamper the lawful advocacy of Swadeshi or abstention from intoxicating liquor. Now, Sir, by this amendment I am only making clearer the scope and the operation of the clause. I am only amplifying and clarifying it because the Honourable the Law Member has repeatedly stated that the law must be clear and unambiguous. Then, Sir, let us see what is the attitude of the Government with regard to the improvement of Swadeshi products. I will quote from the Gandhi-Irwin Agreement the attitude of the Government that was then taken up by the Government. They said:

"The position of the Government is as follows. They approve of the encouragement of Indian industries as part of the economic industrial movement designed to improve the material condition of India and they have no desire to discourage methods of propaganda, persuasion or advertisement pursued with this object in view which do not interfere with the freedom of action of individuals and are not prejudicial to the maintenance of law and order."

So, they are prepared to allow the encouragement of Indian industries except under two conditions, namely, that it should not interfere with the freedom of action of individuals or the maintenance of law and order. Now, that was the policy adopted then and the same seems to be the policy of the Government even today as has been stated by the Honourable the Home Member this morning. I was very carefully listening to his speech and he has stated that all ordinary methods of propaganda are open under this clause. As an instance he stated, the distribution of pamphlets in favour of Swadeshi or writing articles in newspapers are absolutely permissible. Thus it is clear that Government have absolutely no objection for carrying on propaganda for the improvement of Swadeshi industry. They have also no objection for the carrying on of a temperance propaganda, or propaganda for abstention from intoxicating liquors. I want to put the professions of Government to the test and see if they are going to accept my amendment. Under this amendment peaceful picketing, peaceful persuasion, peaceful argument for the purpose of promoting indigenous Swadeshi products and peaceful picketing of toddy, arrack and ganja shops without involving obstruction, violence or intimidation to any person do not come within the purview of this clause. But the Honourable the Home Member, while accepting any peaceful persuasion for the furtherance of these objects as being lawful, has only objected to the word "picketing".

[Mr. T. N. Ramakrishna Reddi.]

I again quote from the Gandhi-Irwin Agreement wherein the Government have agreed to the use of that term, and I am sure the Honourable the Home Member himself must have had a hand in drafting this clause. In clause 7 of that Agreement it is said:

"In regard to the methods employed in furtherance of the replacement of non-Indian by Indian goods, or against the consumption of intoxicating liquor and drugs, resort will not be had to methods coming within the category of picketing except within the limits permitted by the ordinary law. Such picketing shall be unaggressive and it shall not involve coercion, intimidation, restraint, hostile demonstration, obstruction to the public, or any offence under the ordinary law."

So, they must have had absolutely no objection for using the word "picketing" under this Agreement. I do not see any reason why they should have any objection for the word "picketing" when it had no objectionable meaning in the Gandhi-Irwin Pact. If a person goes beyond the limits imposed by this clause, he comes under the operation of the law and he can be hauled up. With these words, I move my amendment which is only confined to two objects,—encouragement of Swadeshi, and the temperance movement.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Amendment moved:

"That to sub-clause (1) of clause 7 of the Bill, the following further *Explanation* be added:

Explanation.—Peaceful picketing, peaceful persuasion, peaceful argument for the purpose of promoting indigenous Swadeshi products and peaceful picketing of toddy, arrack and ganja shops, without involving obstruction, violence or intimidation to any person does not come within the purview of this section."

Mr. N. R. Gunjal: (Speaking in the vernacular, the Honourable Member supported the amendment.)

The Honourable Mr. H. G. Haig: Sir, as far as I understand this amendment, in effect it differs from the amendment which has just been rejected by the House only in so far as it authorises peaceful picketing. The object of this clause is to stop picketing. Picketing, however peaceful it may appear on the surface, according to us has a very definite element of compulsion in it. It would be stultifying our object if we were to say, after prohibiting these various acts which amount to picketing, we were then to say that they are authorised. The amendment further proposes that this special privilege in favour of peaceful picketing should only be applied to certain movements. I have not been able to understand why two particular movements, the Swadeshi movement and the temperance movement should be given this preference

Mr. T. N. Ramakrishna Reddi: Because the Government agreed to these two activities.

The Honourable Mr. H. G. Haig: Surely the Honourable Member does not suggest that we regard all other popular movements as undesirable. There are many other movements. There is the movement in which my Honourable friend, Diwan Bahadur Harbilas Sarma, is so interested. Why is the privilege of peaceful picketing to be denied to them? Sir, the form of this amendment is such that it could not possibly, I maintain, find a place in our legislation. And I would further ask Honourable Members opposite, why cannot Swadeshi be pursued except by the methods

of picketing? Is it a movement so unreasonable or so repugnant to the feelings of the people that it cannot make progress without exercising compulsion on them? Sir, I oppose the amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That to sub-clause (1) of clause 7 of the Bill, the following further *Explanation* be added:

Explanation.—Peaceful picketing, peaceful persuasion, peaceful argument for the purpose of promoting indigenous Swadeshi products and peaceful picketing of toddy, arrack and ganja shops, without involving obstruction, violence or intimidation to any person does not come within the purview of this section."

The motion was negatived.

Mr. Lalchand Navalrai: Sir, I move:

"That to sub-clause (1) of clause 7 of the Bill, the following further *Explanation* be added:

Explanation.—Peaceful picketing does not come within the purview of this section."

I will explain why I am moving this amendment. The former amendments that have been put before this House contained more or less a definition of what peaceful picketing was. They describe certain matters which they consider peaceful. But I was very sorry to hear from the Honourable the Home Member that the intention of Government was to stop all picketing. I think it is not right that Government should go so far. Then the Home Member qualified that statement by saying that picketing was peaceful on the surface of it. Therefore, I am putting only the words "peaceful picketing" and I am leaving it to the magistrates to decide in each case what peaceful picketing is and it will be for them to find out whether it is peaceful picketing on the surface alone or it is substantially peaceful picketing. If it is truly peaceful picketing, then it should not come under this clause, but if it is merely on the surface and considered violent or harmful, then the man should be punished. That is the difference I am making and I am leaving the definition of the words "peaceful picketing" in the hands of the judiciary. I submit that this amendment of mine is very reasonable. If an amendment like this is also not accepted, then I think the reply will be that Government are getting vindictive.

Mr. N. R. Gunjal: (Speaking in the vernacular, the Honourable Member supported the amendment.)

The Honourable Mr. H. G. Haig: Sir, I have already dealt with the point raised by my Honourable friend, Mr. Lalchand Navalrai, in my reply to the previous amendment and I have nothing to add to it.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is

"That in sub-clause (1) of clause 7 of the Bill, the following further *Explanation* be added:

Explanation.—Peaceful picketing does not come within the purview of this section."

The motion was negatived.

Mr. Lalchand Navalrai: Sir, I beg to move:

"That in sub-clause (2) of clause 7 of the Bill, for the words 'officer in charge of a police station' the words 'an Inspector of Police' be substituted."

LEGISLATIVE ASSEMBLY.

Thursday, 1st December, 1932.

[Mr. Lalchand Navalrai.]

Sir, I want to try and see how far Government will go even on very reasonable amendments. What I mean by this amendment is to have a simple safeguard that when there is such an important question as peaceful picketing or no picketing, it should not lie in the hands of a mere constable to decide whether to report against the offender or not. It is very necessary that in these circumstances some responsible police officer should handle the case and get it tried by a Magistrate. I do not think I am asking anything which is unreasonable. I said that under this clause cases would be handled by a constable only. I am fortified in that by the very definition of the words "officer in charge of a police station" in the Criminal Procedure Code, section 4, which says:

"Officer in charge of a police station includes, when the officer in charge of a police station is absent from the station house or unable from illness or other cause to perform his duties, the police officer present at the station house who is next in rank to such officer and is above the rank of a constable."

But, further on, it says that when the Local Government so directs, any other police officer or person may be placed in charge, and that would include a constable also. Therefore, a constable can take cognizance of the case or a head-constable can, so a sub-inspector, but, I want an Inspector to do so and, by virtue of section 551, Cr. P. C., he can act as an officer in charge of a police station. This will be a measure of precaution? Of course people have lost their faith even in Inspectors of Police. We know how police officers are treating these cases of boycott and peaceful picketing. At any rate, it will inspire some confidence to feel that a higher officer has investigated the case, and I submit that this amendment should be considered reasonable.

Mr. N. R. Gunjal: (Speaking in the vernacular, the Honourable Member supported the amendment.)

The Honourable Mr. H. G. Haig: Sir, the officer in charge of a police station is the officer who normally investigates a case and sends it up for trial. It is for that purpose that we have provided that these cases should not be instituted without that procedure having been followed. If it were made obligatory that a case of this nature should go before an Inspector of Police, that would mean considerable delay in procedure. These cases, when the picketing movement is in operation, are very numerous and it is particularly essential that they should be dealt with promptly. The amendment moved by my Honourable friend would defeat this very necessary intention of the clause.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in sub-clause (2) of clause 7 of the Bill, for the words 'officer in charge of a police station' the words 'an Inspector of Police' be substituted."

The motion was negatived.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That clause 7 stand part of the Bill."

The motion was adopted.

Clause 7 was added to the Bill.

The Assembly then adjourned till Eleven of the Clock on Thursday, the 1st December, 1932.

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

SHORT NOTICE QUESTION AND ANSWER.

HUNGER-STRIKE OF THE DETENUS IN THE DEOLI CAMP JAIL.

Mr. S. C. Mitra: (a) Has the attention of Government been drawn to the statement published in the *Hindustan Times*, dated the 29th November, 1932, under the caption "Deoli Detention Camp—Is a Hunger-Strike on?" If so, will Government be pleased to state whether the statement of the hunger-strike of the detenues in Deoli Camp is true? If so, how many of them are on hunger-strike and since when have they gone on hunger-strike?

(b) Is it a fact that on 2nd November, 1932, there was a serious trouble in the Camp and as a result the Gurkha guards have inflicted heavy casualties amongst the detenues? If so, will Government be pleased to state separately the number of detenues killed and injured as a result of the said trouble on the 2nd November, 1932?

(c) Is it a fact that 30 detenues received injuries of a more or less serious nature?

(d) Is it a fact that the condition of Phanindra and another detenu is critical? If so, will Government be pleased to state what medical aid was rendered to them?

(e) Is it a fact that Mr. Satyendranath Sen has been transferred to Ajmer Jail from the Deoli Camp? If so, what are the reasons of such transfer?

(f) Will Government be pleased to state the causes that led to the trouble, and do Government propose to appoint a Committee of Enquiry to inquire into the causes of the trouble? If not, why not?

(g) Will Government be pleased to state whether they have any objection to the Non-Official Members of the Legislative Assembly visiting the Camp? If so, what are the reasons?

The Honourable Mr. H. G. Haig: The facts are as follows:

During October, some of the detenues at the Deoli Camp disregarded the rules about roll-call. On the 26th October, two detenues were found absent from roll-call, and subsequently refused to obey the orders of the Superintendent summoning them to his office. The Superintendent awarded punishment to the senior detenu for absence from roll-call and deliberate and obstinate disobedience of his orders. The punishment awarded was reduction of diet allowance and personal allowance for 14

[Mr. H. G. Haig.]

days and the cancellation of the privilege of writing and receiving letters for a period of two months. On the morning of the 29th October, the Superintendent received a general communication from a number of detenus threatening that they would cease to attend roll-call unless the punishment was withdrawn. On the 30th, only 9 or 10 detenus attended the roll-call, and similar disobedience of orders occurred on the 31st October, and the 1st November. Later on that day one detenu, who had not only refused to attend the roll-call but for a long time could not be found at all, was summoned to the Superintendent's office, but refused to obey, he was again summoned to attend on the morning of the 2nd, but again refused. The detenus' Manager had been asked to persuade the detenu to proceed to the office, but he replied that he could give no help in the matter. Guards were, therefore, sent to bring the detenu to the office, whereupon some 50 detenus crowded round the entrance of the room blocking the way and adopting a threatening attitude towards the Superintendent. The guards were ordered to make a passage for the removal of the detenu. They forced back the crowd and a scuffle ensued. The detenus abused the jail officers, seized the Deputy Superintendent round the waist and tore the uniform of the Superintendent and others. Two detenus received small cuts on the head, and a number received contusions. There is no truth in the suggestion that 30 detenus received injuries of a serious nature. On the 5th November, two of the detenus commenced a hunger-strike, and four others followed their example on various dates between the 10th and 15th. On the 25th November, all six abandoned the hunger-strike, and their condition is understood now to be quite satisfactory. The hunger-strikers were looked after by the Medical Officer of the Camp, and the Additional Civil Surgeon of Ajmer was also specially sent out to Deoli and remained there superintending their treatment.

Mr. Satyendranath Sen has been transferred from the Deoli Jail, as he was the prime instigator of these organized attempts to defy authority. The Government are satisfied that the facts are as stated above, and they do not propose to appoint a committee of enquiry.

Mr. S. C. Mitra: May I take it that the condition of no detenu is very critical or serious at present there?

The Honourable Mr. H. G. Haig: Yes; the Honourable Member may certainly take that.

Mr. S. C. Mitra: Will the Honourable Member please explain why telegrams inquiring about the health of detenus of the Deoli Camp Jail are not being replied to by the Commandant? Because of the rumour in the Press, there is anxiety and there were some telegrams sent inquiring about the health of the detenus, but no reply has yet been received. Is it the policy of the Government that no reply should be given of telegrams?

The Honourable Mr. H. G. Haig: I have not heard about these particular inquiries. Did they relate to the detenus who were at the time on hunger-strike?

Mr. S. C. Mitra: The relations of detenus do not know who are on hunger-strike: they complain they wired to the Commandant, but these wires are not answered and, as a matter of fact, correspondence has been

stopped with these detenus for the last fortnight. Will the Honourable Member make an inquiry about that in order that relations of detenus may be appeased and they may have some information about the detenus?

The Honourable Mr. H. G. Haig: I will certainly find out whether inquiries are being answered or not.

Mr. Lalchand Navalrai: May I know from the Honourable Member whether in the scuffle on the other side, that is, the Government side also, anybody received a beating or any injury or bruises?

The Honourable Mr. H. G. Haig: I have stated that the uniform of two or three persons was torn including that of the Superintendent, and the Deputy Superintendent was seized round the waist.

Mr. Lalchand Navalrai: That is to say, there was no injury: I was asking about injury in the sense of bruises or contusions.

The Honourable Mr. H. G. Haig: I do not think so. I am told that one of the detenus came along armed with a large stone, but that they succeeded in preventing him throwing it.

Mr. Lalchand Navalrai: May I know if this Deoli Jail is intended to be a temporary one or a permanent one, because there is a rumour or rather a report in the papers that it is going to be made permanent?

The Honourable Mr. H. G. Haig: I hope the terrorist problem is not going to be permanent, but there is certainly no intention of any early discontinuance of the Jail at Deoli.

Mr. C. S. Ranga Iyer: Will Government be pleased to state how the roll-call is conducted?

The Honourable Mr. H. G. Haig: I understand that the roll-call is conducted by the detenus being present beside their beds in the evening.

Mr. C. S. Ranga Iyer: Will Government be pleased to state if any humiliation is involved in the roll-call?

The Honourable Mr. H. G. Haig: Absolutely none.

Mr. C. S. Ranga Iyer: Will Government then explain why this scuffle took place between the detenus and the guard?

The Honourable Mr. H. G. Haig: I have already explained that it was part of an organised movement to defy authority.

Mr. C. S. Ranga Iyer: Do all the detenus subscribe to this organised movement or only a small number of them?

The Honourable Mr. H. G. Haig: The greater proportion of them, I think.

Mr. C. S. Ranga Iyer: How many detenus are there and how many subscribe to this?

The Honourable Mr. H. G. Haig: There are something under 100 detenus in the camp and this crowd consisted of about 50.

Mr. O. S. Ranga Iyer: The Honourable Member was saying that one detenu could not be found. Will Government be pleased to state if he had run away from the camp?

The Honourable Mr. H. G. Haig: No; he did not; but he was apparently concealing himself. The Honourable Member will surely recognise that it is most important that at least once in every 24 hours the authorities should assure themselves that all the detenus are present.

Mr. O. S. Ranga Iyer: Are there facilities for concealment in the Detenu Camp?

The Honourable Mr. H. G. Haig: There obviously are facilities for concealment in any camp.

Mr. S. O. Mitra: May I take it that the rumour that Phanindra and Jnan Majumdar were severely assaulted on the head is not correct?

The Honourable Mr. H. G. Haig: I have not the names of the detenus, but as I have already informed the House, two detenus received small cuts on their head.

Mr. O. S. Ranga Iyer: Is there any truth in the rumour that the Government may at some stage deport these detenus to the Andaman Islands?

The Honourable Mr. H. G. Haig: No, Sir; I have already informed the House that no such proposal is under consideration.

Mr. B. S. Sarma: Would it not be a good policy for the Government to issue communiqués explaining the exact position so that such rumours may be discounted?

The Honourable Mr. H. G. Haig: I thought, Sir, it would be more agreeable to the House if information were given in the form of an answer to a question in the House rather than that it should be conveyed in the form of a communiqué. The result, I think, is precisely the same.

Mr. O. S. Ranga Iyer: What is the difficulty of Government to allow some representative men from this House to visit the Detenu Camp?

The Honourable Mr. H. G. Haig: No, Sir; I see no reason to agree to that proposal.

Mr. S. O. Sen: What is the nature of the inquiry and by whom is it made, which satisfies the Government to say that no further inquiry is necessary?

The Honourable Mr. H. G. Haig: There is no difficulty in ascertaining the facts. The Superintendent reported and the matter has also been inquired into by the Commissioner.

Mr. O. S. Ranga Iyer: The Honourable Member stated "I see no reason why representative men from this House should be allowed to visit the camp". Will he please say why he sees no reason?

The Honourable Mr. H. G. Haig: Will the Honourable Member please explain why representatives from this House should go to the Camp?

Mr. O. S. Ranga Iyer: Obviously because there seems to be a good deal of misapprehension and anxiety, and, if responsible representative Members go there, they will be able to make a statement.

The Honourable Mr. H. G. Haig: The Honourable Member is well aware that anything in the nature of a Committee of Inquiry would have an unfortunate effect on the discipline in the Deoli Jail which, as the story I have just given to the House shows, has been already somewhat unsatisfactory.

Mr. H. P. Mody: Is there any special reason why a Non-Official Visitors' Committee should not be set up in connection with the detention of State Prisoners on the lines of the Non-Official Visitors' Committees for ordinary prisoners?

The Honourable Mr. H. G. Haig: I have already informed the House last Session that a Visiting Committee has been appointed.

Mr. H. P. Mody: Who comprises this Visiting Committee with regard to this particular detention camp?

The Honourable Mr. H. G. Haig: I would ask the Honourable Member to refer to the answer which I gave during the Simla Session.

Mr. H. P. Mody: Perhaps the Honourable Member will be good enough to repeat it for us, as we have short memories.

The Honourable Mr. H. G. Haig: If the Honourable Member will put down a question, I will look up the answer, but I should have thought it might have been more convenient if he looked up the answer for himself.

Mr. O. S. Ranga Iyer: Is Diwan Bahadur Harbilas Sarda a member of that Visiting Committee?

The Honourable Mr. H. G. Haig: No, Sir.

Mr. O. S. Ranga Iyer: Will Government be pleased to consider the desirability, as Ajmer-Merwara comes under the control of the Central Government, of including the representative of Ajmer-Merwara from this House in that Committee so that this House may know at any rate in the lobby, if not on the floor of the House, as to what is happening in the Camp?

The Honourable Mr. H. G. Haig: The Visiting Committee, Sir, is appointed by the Chief Commissioner, but the Honourable Member's suggestion will be conveyed to him.

Mr. S. C. Mitra: Is it a fact that the Visiting Committee merely consists of a Government contractor?

The Honourable Mr. H. G. Haig: I have no information, Sir, as to the particular qualifications of the members of the Visiting Committee. I have only been informed of their names.

Mr. S. C. Mitra: Will he kindly make inquiries and see that independent men like Diwan Bahadur Harbilas Sarda are included in that Committee and that the Committee does not consist of one man as at present?

The Honourable Mr. H. G. Haig: I have already stated that a copy of these questions and answers will be forwarded to the Chief Commissioner on whom lies the responsibility of forming the Committee.

Mr. H. P. Mody: Can a Committee be composed of one man?

The Honourable Mr. H. G. Haig: There are also official members.

Sardar Sant Singh: In view of the fact that the non-official members who are appointed by the Local Government do not enjoy the confidence of the people, is it not in the interest of the administration that the policy of appointing non-official members from the nominees of District Magistrates should be changed and elected Members should be appointed?

The Honourable Mr. H. G. Haig: That, Sir, I do not think arises out of this question. I understand the Honourable Member is putting to me a general proposition.

STATEMENTS LAID ON THE TABLE.

The Honourable Mr. H. G. Haig (Home Member): Sir, I lay on the table the information promised in reply to starred question No. 1385 asked by Mr. M. Maswood Ahmad on the 22nd November, 1932.

BURGLARY IN THE DILKUSHA AND ARAMBAGH SQUARES IN NEW DELHI.

*1385. (a) Yes;

(i) the neighbourhood can scarcely be described as frequented by thieves, though there have been burglaries within the last two months;

(ii) Patrols visit these localities but with the present inadequate staff regular patrolling cannot be provided.

(b) The offences mentioned have been thoroughly investigated and all possible action has been taken to check their recurrence and to arrest wrong-doers.

(c) and (d). Petitions were received by the Superintendent of Police and I understand that suitable action to safeguard the neighbourhood has been taken. Government do not consider it necessary to issue any further instructions in the matter.

Mr. H. A. F. Metcalfe (Foreign Secretary): Sir, I lay on the table the information promised in reply to starred questions Nos. 1119 to 1126 asked by Mr. S. C. Mitra on the 14th November, 1932.

REMISSION OF ONE MONTH'S SENTENCE TO A CONVICT NIGHT WATCHMAN FOR BEATING A POLITICAL PRISONER IN THE CENTRAL JAIL AT AJMER.

*1119. It is not a fact.

STANDING HANDCUFFS GIVEN TO ONE JUGRAJ IN THE AJMER CENTRAL JAIL.

*1120. The answer to both parts of the question is in the negative.

BEATING OF A POLITICAL PRISONER BY THE JAILOR OF THE AJMER CENTRAL JAIL.

*1121. It is not a fact.

DENIAL OF FACILITIES TO POLITICAL PRISONERS IN THE AJMER CENTRAL JAIL.

*1122. (a) Blankets, mats and books are invariably supplied according to the Jail rules. Prisoners are not allowed to borrow books from other prisoners. No books, which could suitably be allowed, have been confiscated.

(b) Ladu Ram Joshi was punished for using insulting language.

(c) There has been no such confiscation of books or blankets. Government have no information of any such incident.

SLAPPING OF A LAME POLITICAL PRISONER IN THE AJMER CENTRAL JAIL.

*1123. No.

LOSS OF WEIGHT OF CERTAIN POLITICAL PRISONERS IN THE AJMER CENTRAL JAIL.

*1124. (a) No. It is not a fact.

(b) Hospital diet is given according to the scales prescribed in the Ajmer-Merwara Jail Manual. There is no necessity to alter these scales. The quantity and quality of food supplied are in no way insufficient. The diet is varied in individual cases to suit medical requirements.

ILL-TREATMENT OF CERTAIN POLITICAL PRISONERS IN THE AJMER CENTRAL JAIL.

*1125. (a), (b) and (c). The answers to all these questions are in the negative.

SUPPLY OF ONLY ONE MEAL TO "C" CLASS PRISONERS IN THE AJMER CENTRAL JAIL.

*1126. A certain number of prisoners were, at their own request, allowed to take food only once a day.

Mr. P. R. Rau (Financial Commissioner, Railways): Sir, I lay on the table:

- (i) the information promised in reply to starred question No. 671 asked by Shaikh Fazal Haq Piracha on the 28rd September, 1932; and
- (ii) the information promised in reply to starred question No. 1186 asked by Khan Bahadur Haji Wajihuddin on the 14th November, 1932.

RETRENCHMENT OF MUSLIMS IN THE RAILWAY CLEARING ACCOUNTS OFFICE, DELHI.

*671. (a) The total number of men retrenched between 3rd February, 1931, when the discharge started and 1st November, 1932, was 76 out of which 15 were Muslims.

(b) The total strength of the staff of Muslims before and after reductions, including discharges and other casualties such as normal retirements, transfers, etc., was as follows:

	On 3rd February, 1931.		On 1st November, 1932.	
	Total strength.	Muslims.	Total strength.	Muslims.
Permanent and temporary employees appointed before 1st January, 1929	1,246	143	1,152	135
Temporary employees appointed after 1st January, 1929, who were on a purely temporary footing without claim to confirmation ..	30	16	14	7
Total ..	1,276	159	1,166	142

PURCHASE OF BAGS FOR HAYMAN-MOHINDRA PUNCHING MACHINES.

*1136. (a) A bag has been supplied to Travelling Ticket Examiners for purposes other than carrying Hayman-Mohindra Punches, viz., for keeping excess Fare and Journal Books, Distance Fare Tables, Pocket Guide, Time-table and Carriage Keys, etc.

(b) The cost of one satchel is Rs. 2-8-0. The total cost of satchels supplied was Rs. 2,032-8-0.

(c) In view of reply to item (a) this question does not arise.

(d) No such bags were supplied before on the East Indian Railway. Information regarding other State Railways is not available.

THE CRIMINAL LAW AMENDMENT BILL—contd.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order. The question is:

"That clause 8 do stand part of the Bill."

Mr. S. O. Mitra (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): I move, Sir:

"That clause 8 of the Bill be omitted."

This clause deals with the power to order a parent or guardian to pay fines imposed on young persons under the age of 16 years. I admit that this principle of guardians being made liable to pay fines for their minor wards is not a novel one. It has been in existence in other countries, and even in our country in the four major provinces a similar law exists. My amendment is made with a view to seeing that such a provision should not exist in an emergency legislation like this, because I find that in Bombay, Bengal, Madras and C. P., which are all big provinces, there is the Children's Act, and, in sections 25 and 26 of that Act, there is a provision analogous to this, and if any fine is imposed, it can be realised under that section. So if really there is a necessity, let the provinces undertake the legislation where the "superstructure" is being built, and it need not be incorporated in the "foundation Bill" itself in the Assembly. I agree that the clause has been much improved in the Select Committee, and the parent will not be liable to imprisonment under the amended clause, but I oppose it on the ground that it is useless.

Pandit Ram Krishna Jha (Darbhanga cum Saran: Non-Muhammadan): Sir, I beg to support this amendment, not in the hope that it will be carried, for I have seen the fate of 101 amendments already proposed, nor in the hope that any reasons advanced from this side will convince the Honourable the Home Member to change his views, because we know that he has already made up his mind to pass this Bill, without any alterations. But what I want to point out is, is there really any difference of opinion between Members on this side of the House and the Government as to the necessity of having some law to control the boys? There is none. In fact, no Member on this side of the House disagrees with the Government that the civil disobedience movement should not be allowed to continue in its present form. There is also absolutely no difference of opinion between the two sides of the House that the boys should not be allowed to develop a mentality which amounts to disobedience to law and order, because that will embarrass not only the Government but the family, society and everybody.

The question is this. Who is responsible for this mentality which we now find in the young boys? My submission is that it is not the parents. The parents have to send their boys to the schools. There you impart such godless education that the boys develop that kind of mentality. You pay no heed to the popular demand that the education should be on religious lines. If you impart religious education, I have no doubt that the boys will never develop that mentality. My submission

[Pandit Ram Krishna Jha.]

is, when you are responsible for this defective education, why should the parents be blamed? If there is anybody who is responsible for all this, I should say, it is the educational policy of the Government of India, and if anybody has to pay the fine it should be the Education Minister, Sir Fazl-i-Husain, and not the parents. What can the poor parents do? I am sure, nobody will like that his son or nephew should go and take part in the civil disobedience movement and thereby bring on them the penalty of fine or imprisonment. Nobody likes that. Is there any remedy for this? The parent has to send his boy to the ordinary school in the village in which he is living. The boy does not get any religious education. The boy then argues with the elderly people and says, this is my conviction, this is what my conscience says. Things like this go on. How is the parent responsible for that? It is for you to find some means of giving such sound education that this mentality may not be formed. As I said, no parent would like his son should go and take part in the civil disobedience movement. In fact, parents of that mentality will not be here at all, will not care to come here at all. They may be right or wrong, I am not criticising them, but what I mean to say is that there should be absolutely no difference of opinion between the Government and this side of the House as to the need of it, but the remedy suggested, is, I submit, not right. I would ask the Honourable the Home Member to consider this aspect of the question and then see how far the parent or guardian should be made liable for all this. There is another very objectionable feature in this clause. The definition of a guardian is very wide—it says, anybody having the care of the boy. Out of pure generosity, suppose, I am maintaining some poor boys who have no means of living. They reside with me. I am here, they are there. They are all impressionable boys of the age of 11, 12 or 14. They go to the school and they are led away by the Congress people, and then they are hauled up. A fine is imposed. Am I to pay the fine? Is that the reward for my generosity? I submit, the definition is too wide, and the phrase "care of" should be deleted. In any case, I submit, if you are not prepared to do away with the clause, it should be so modified that there may not be any undue hardship to any parent or guardian or anybody else. As I have already said I never disagree with you that this mentality should be stopped.

Mr. B. V. Jadhav (Bombay Central Division: Non-Muhammadan Rural): I rise to support the amendment. The Mover of the amendment, Mr. Mitra, has paid a compliment to the Government for diminishing the rigours of the clause as it was originally in the Bill. The punishment of imprisonment in default of payment of fine which was in the original Bill has been taken away, but as has been pointed out by the previous speaker, the definition of the word "guardian" is too wide and is likely to lead to great hardship. Take this case. The superintendent of a hostel is in control of the boys in the hostel. The boys go out for a walk and if they mix themselves up in some Congress activity or other undesirable activity, is that superintendent to pay the fine? As a matter of fact, at the time the boys go out, they are not under his control. They go out for a walk or play or to do some such innocent thing, and one cannot expect that the superintendent of the hostel should always be in charge of the students and should be held responsible for each and every mischief that the boys commit. Of course, sub-clause (2) gives an opportunity to the parent or guardian for being heard, but it does not mean that his

responsibility on that account will cease, because he is the guardian liable for payment of the fine, and that is very objectionable. For these reasons, I think that the whole clause should be omitted.

Mr. K. P. Thampan: (West Coast and Nilgiris: Non-Muhammadan Rural): I also wish to support this amendment. In the first place, I take strong objection to this kind of vicarious punishment. It is an unusual thing. In this Bill clauses 4 and 7, which are the most important, deal with boycott of public servants and picketing. This clause deals with such offences committed by minors below the age of 16. I cannot for a moment believe that these youngsters have got sufficient powers of persuasions to prevent people joining the Government service or carry on an effective campaign of boycott. But even if they are in a position to persuade them, and the guilt is proved, the best punishment would be to cane them. I do not mind if the remedy is altered and a corporal punishment is given instead. But here it is contemplated that a fine should be levied, and that it should be recovered from the guardian. It is a heavy responsibility imposed on the guardian and I take strong objection to that kind of punishment. Now a days boys live in college hostels and other institutions in distant towns while the guardians themselves live in their villages. As my Honourable friend, Mr. Jha, said, it is absolutely impossible under modern conditions of life for the guardian to exercise that kind of control over them as would keep them safe. It often happens that on account of associations and surroundings these boys take part in political agitations, and the guardians living miles away in the villages cannot be held responsible for the activities of these boys, however much they may wish that the boys should not participate in these things. Of course, there is this provision:

"No such order shall be made if the parent or guardian satisfies the Court that he has not conduced to the commission of the offence by neglecting to control the offender . . ."

But, I submit, it is halting and vague. After the boys leave their homes, the parents cease to have any connection or contact with them. They are only called upon to make monthly remittances to the boys until their return to their homes after the annual examination at the end of the year. Till then they are not in actual touch with the boys and cannot be held responsible for their activities. That is the real situation. I, therefore, support this amendment.

Sardar Sant Singh (West Punjab: Sikh): The provisions of this clause, it may safely be conceded, are consistent with its drastic sister provisions that have already been discussed on the floor of this House. Though the Opposition has tried to explain that the situation in the country, if attempted to be controlled by this Ordinance, is likely to become more serious, yet the Treasury Benches insist upon enacting this measure in its original form. The present clause provides the penalty for the boy's parent or guardian for the offences of his children. It is against all the fundamental principles of criminal jurisprudence to visit the sins of sons on the heads of their guardians. The provision does not stop there alone, but throws the onus upon the guardian to prove his innocence. It first dubs a citizen as criminal when he has no criminal intention and has committed no act which breaks any law, then throws the onus on him to prove his non-liability. In actual practice, Sir, such a provision is likely

[Sardar Sant Singh.]

to lead to curious results. Take, for instance, the case of a father who sends his son for education to a central place. The son is out of the control of the father for the time being and is living under the control of the Superintendent of the hostel or the Principal of the college where he is studying. He commits an offence of the kind mentioned in the Bill when residing there. According to the definition of guardian in this clause, namely, "guardian includes any person who in the opinion of the Court has for the time being the charge of or control over the offender" the person made liable is either the Superintendent of the hostel or the Principal of the College, because either of them or both have the control of the offender. Is he to pay the fine? (Sir Muhammad Yakub: "Certainly.") Very good. That is the opinion of an able lawyer. The clause is surely open to this interpretation. If the superintendent is liable to pay the fine, why not the institution? (An Honourable Member: "Director of Public Instruction.") The Director of Public Instruction probably is too remote a person. That is an aspect of the subject that cannot be ignored. Difficulty of a different sort may arise for the guardian when he attempts to control the activities of his ward. Suppose, for instance, I discover that my son has been influenced by an unlawful association and he decides to go to picket a liquor shop. I at once take hold of the son and shut him up in a room and would not let him out, for I do not want to run the risk of being made liable to pay the fine if he commits an offence. An associate of my son comes to know of this confinement and lodges a complaint with a Magistrate and asks for a search warrant under section 100 of the Criminal Procedure Code. The Court is bound to issue such a warrant. In execution of this warrant, the police secures the release of my son. Thus I lose control over my son. He goes and commits an offence. I find him in the lock up and ultimately he is convicted and fined. The fine falls on me though I committed no fault. This is not all. The son may go and prosecute me for having illegally confined him. In such a case, I may be doubly punished once for not exercising the control over my ward and, second time, for attempting to exercise it. If the Honourable the Home Member still insists on the retention of this clause, I will venture to make a suggestion to add an *Exception* to the Indian Penal Code to the effect that "nothing will be an offence, when a parent or a guardian controls his son for the purpose of preventing him from joining an unlawful association". Otherwise the situation will become very unpleasant and embarrassing. In the alternative the only way of escape would be to advise young parents to practise birth control.

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): A similar amendment stands in my name, and I support this. Before this Bill went to the Select Committee, the House knows that this particular clause was protested against and it was considered to be an unnatural one and likely to be worked in an unnatural way. Hopes were entertained that in the Select Committee this clause would be amended in a manner as to suit the purpose for which this measure was to be enacted. Some of the Members who spoke were keen on seeing that this clause did not find a place in the Bill. I do not know what attempts were made there, but I submit the amendment made there has not mitigated the rigour with which this clause will be worked. We find that the parents are clearly going to be punished for the sins of their children. The clause is so wide in its

scope, that it will make liable any parent. This will be certainly putting a premium upon the harsh enforcement of this clause against innocent and co-operating friends. Much reliance is sought to be placed on the fact that there are similar provisions in two or three Provincial Acts, such as the Bombay Children Act of 1924 and the Madras and Bengal Children Acts. Now, it should be realised what was the object of those Acts when they were enacted. And what is the object of the present Bill? There is a vast difference between the times when those Acts were enacted and the present times. It will be observed by reading those Acts that they were made at a time when the non-co-operation and the civil disobedience movements were not in force, and it will also be realised that in those days the children were under the control of the parents. There was no wave of unrest of the present nature operating to take away children from the control of their parents. It was only intended in those days to punish those parents who would not take care of or support their children or who would fail to act in such a manner as to leave the children uncared for. Those Acts were intended to provide punishment for defaulting parents who neglected their children. But what is the condition now? You all know that the present wave is too strong. It has got hold of the youngsters, many of them have left their parents, and several parents have lost control over these youngsters. Neither the parents nor the Professors, while the youngsters remain in schools and colleges, are heeded much. Sir, these are the days of freedom, and, especially, with this wave, the provisions of those Children's Acts could never serve as precedents for framing an Act like the present one. Now, going further, we find that the provisions of even those Acts are more satisfactory than the provisions contained in the present clause. I should like to read section 25 of the Bombay Children Act, 1924, which says:

"Where a child or young man is convicted of an offence punishable with fine and the Court is of opinion that the case would be best met by the imposition of a fine, whether with or without any other punishment, the Court may, in any case, and shall, if the offender is a child, order that the fine be paid by the parent or guardian of the child or young man, unless the Court is satisfied that the parent or guardian cannot be found or that he has not conducted to the commission of the offence by neglecting to exercise due care of the child or young person."

I am laying stress upon the last proviso that has been added which throws the burden upon the prosecution. Now, compare this with the provision that has been made in the present Bill. Here, the Court is not to convict a person unless it is satisfied—not that the accused has to satisfy the Court. That is quite plain. Therefore, coming to the clause that has been added,—I do not know if the attention of the Select Committee Members was drawn to the fact that the clause as proposed to be added is meaningless when it throws the burden on the accused. I will read the sub-clause. It says:

"Before making an order under this section the Court shall give the parent or guardian an opportunity to appear and be heard, and no such order shall be made if the parent or guardian satisfies the Court that he has not conducted to the commission of the offence by neglecting to control the offender, or that the offence was not committed in furtherance of a movement prejudicial to the public safety or peace."

Thus it is quite plain that the burden is thrown on the accused. This cannot possibly be denied, but if you read the former legislation, there the satisfaction of the Court was dependent primarily on the evidence of the prosecution. There is a vital difference, and we should not be deceived by

[Mr. Lalchand Navalrai.]

the fact that an *Explanation* has been put which says that the parent could satisfy the Court that he had not been neglectful. It must be shown by the prosecution that the parent either acquiesced in the doings of his son, or that he did not take prompt measures, and, it is then only, that he should be made amenable to this clause. Therefore, this clause has not at all been improved upon; on the contrary, the burden has been put upon the parents, which is absolutely unjust. Then, proceeding further, the other difference is that in the present clause, no appeal has been provided against any order of fine imposed on the parent, whereas we find that clause (4) of section 25 of the Bombay Children Act, 1924, provides that the parent or guardian may appeal against such order as if it had been an order passed in proceedings against himself. Now, no such provision has been put in, and people would be misled as to whether the Criminal Procedure Code does apply to this clause and whether there will be an appeal or not. I have put in certain amendments, which will come on later to elicit fully from the Honourable the Law Member as to whether punishments and convictions under this Bill are liable to appeal and open to revision or not. With regard to the present clause, I would like to get a clear statement from the Honourable the Law Member as to whether the Criminal Procedure Code applies to this clause or not, and whether the omission of this clause about appeals, which appears in the former Acts, and its non-incorporation in the present Bill, is deliberate, or that it is because the Criminal Procedure Code provides it

The Honourable Sir Brojendra Mitter (Law Member): Sir, the Criminal Procedure Code does apply,—because it will be an order of an ordinary Magistrate: and an order of an ordinary Magistrate is always appealable or subject to revision, as the Criminal Procedure Code provides.

Mr. Lalchand Navalrai: I am thankful to the Honourable Member, but the point is this. In section 408 of the Criminal Procedure Code, it is said:

“Whoever is convicted of an offence will have a right of appeal.”

The words are general no doubt, but where, in a particular matter like this, the conviction is against the child or young man, and the fine is going to be recovered from the parent, I want to know whether that would really be a conviction or sentence or not. I cannot, therefore, understand, if that is the intention, why is it that proviso No. 4 to the former Bombay Children Act is not incorporated here in order to remove all misunderstanding. Sir, I would also like to submit that many instances have been cited in order to show that the parent will be unnecessarily punished and made to pay a fine where the children are not living with him, but are living at long distances from him in different parts of India. One cannot possibly understand how a parent is negligent in allowing his sons to join such a movement when they have been sent elsewhere either to receive education or to join some avocation. Therefore, I submit that cases of that nature would be very hard cases and one does not know if such a distinction will be made by Magistrates. As the clause is at present, it makes the parent punishable for the crime of the son. Even if the fine is not paid by the child, it will be recovered from the parent. The clause is very oppressive. I, therefore, support the amendment.

Rao Bahadur B. L. Patil (Bombay Southern Division: Non-Muhammadan Rural): Sir, I have several objections to this clause as it has emerged from the Select Committee. However, I am prepared to congratulate the Honourable Members who worked on the Select Committee for the improvements they have done in this clause, but unfortunately the improvements are very few and not substantial. Sir, the author of this clause seems to have assumed that all guardians can control all the actions of their children. He seems to have thought that children are like toys whose movements can be controlled by means of wires, pulling them whenever they like to pull them. Unless the author of this clause is under this kind of assumption, I think no reasonable person would have drafted it in the form in which we see it. Even if we look to the provisions of the Indian Penal Code, we will see that the liability of a child is exempted if the child is below seven years of age. Such a child is altogether exempted from punishment. Why should not the corresponding period be fixed in this case? We know, as a matter of common sense, that children, as they begin to grow, come in contact with outside people. Is it possible for any parent on this earth to control each and every influence that is likely to come upon a child who is allowed to go in the streets, who is allowed to go to his school and play ground and who is allowed to come in contact with the people in the street. Therefore, if the author of this clause had exercised a little practical common sense, certainly the clause would not have found any place in this Bill. I am prepared to call this clause only a money-making clause.

Then, Sir, I come to the wording of sub-clause (2) of this clause. The words are: “a movement prejudicial to the public safety or peace”. It is very difficult to know beforehand what are the movements that are prejudicial to the public safety or peace in their very nature. Unless there is a movement for committing rebellion or unless there is a movement to commit organised dacoities, and so on, it is not possible to say beforehand what movements are likely to lead to the breach of the public peace. Therefore, it is not proper that such vague terms should be used in this clause and parents should be held responsible for the acts done by their children. For these reasons, I support the amendment.

Mr. Uppi Sahab Bahadur (West Coast and Nilgiris: Muhammadan): Mr. President, I rise only to make a suggestion to the Treasury Benches. We have been reading in Aesop's Fables the story of the lion and the kid. It will be well if the Bureaucracy revise the Aesop's Fables and tell the world that there was a Bureaucracy which ruled in India and which told Indians that, if you have not committed a sin, your son has; so you must suffer and be punished. With these observations, I support the motion.

Pandit Satyendra Nath Sen (Presidency Division: Non-Muhammadan Rural): Sir, I rise to support the amendment. This clause, I think, is a very wide one. I understand that vicarious punishment is in vogue in Western countries as well as in some parts of this country. But I refuse to believe that the law of Western countries is our Gospel, and it has been shown very ably by my Honourable friend, Mr. Lalchand Navalrai, that the law prescribed in other parts of India materially differs from that which is proposed to be enacted here. Sir, the political condition of Western countries and the condition of India are widely different from each other. Their peace has not been disturbed so vitally as ours. And, as to the genesis of the trouble, Pandit Jha has made a true diagnosis.

[Pandit Satyendra Nath Sen.]

It was the Government who introduced into the country a system of Godless education and it does not lie in their mouth to say that a parent or an accidental guardian is liable for the acts of his ward over whom he may have no control. I would have been prepared to support such a measure if it were brought forward, say, 50 years ago, but I am not prepared to support it today. And what can I do? How can I restrict the activities of my son? If I restrict his activities, I come under clause 7, and if I do not, I come under clause 8. So I am between Scylla and Charybdis. I am helpless and so I support the amendment.

Mr. S. G. Jog (Berar Representative): Sir, in the old programme of this Bill which purports to combat the civil disobedience movement, from my point of view and from the point of view of all parents who have children, I think this clause is of vital importance. Probably those who have no children or who are not likely to have any children in the future are not in a position to judge the consequences of the implications in this clause and, to that extent, I can excuse some of those who cannot realise the consequences of this measure. It is no doubt true that this particular clause is to some extent an improvement on the section as it was incorporated in the Ordinance Act. For the information of the House, I will read out the section in the Ordinance Act.

"(1) Where any young person, under the age of sixteen years, is convicted by any Court of an offence under this Ordinance or of an offence which, in the opinion of the Court, has been committed in furtherance of a movement prejudicial to the public safety or peace, and such young person is sentenced to fine, the Court may order that the fine shall be paid by the parent or guardian of such young person as if it had been a fine imposed upon the parent or guardian :

Provided that no such order shall be made unless the parent or guardian has had an opportunity to appear before the Court and be heard.

(2) In any such case the Court may direct by its order that in default of payment of the fine by the parent or guardian, the parent or guardian shall suffer imprisonment as if the parent or guardian had himself been convicted of the offence for which the young person is convicted."

I must sincerely offer my congratulations to the authors of the Bill because we have been saved from the punishment of imprisonment.
12 Noon.

Mr. K. Ahmed (Rajshahi Division: Muhammadan Rural): What did you do in the Committee?

Mr. S. G. Jog: My Honourable friend wants to know what we did in the Select Committee. There we did our best to get rid of this clause. We suggested several amendments, but we were quite helpless in the matter. As regards the point suggested by my Honourable friend, Mr. Navalrai, as regards the burden of proof, we tried our best to throw it on the prosecution. I have got in my hand a draft which will show how we tried to meet the question of the burden of proof. I will read out the draft:

"Where any young person, under the age of sixteen years, is convicted by any Court of an offence under this Act or of an offence which, in the opinion of the Court, has been committed in furtherance of a movement prejudicial to the public

safety or peace and such young person is sentenced to fine, the Court may order that the fine shall be paid by the parent or guardian of such young person as if it had been a fine imposed upon the parent or guardian :

Provided that no order shall be made under this section unless—

(i) the parent or guardian has had an opportunity to appear before the Court and be heard;

(ii) the Court is satisfied that the offence was committed in furtherance of a movement prejudicial to the public safety or peace;"

So it will be seen that we distinctly suggested that the burden of proof should be on the prosecution. So long as the prosecution has not proved that the offence was committed in furtherance of a movement prejudicial to the public safety or peace, the Magistrate cannot impose the fine on the parent.

Another safeguard is:

"The Court is satisfied that the parent or guardian has condoned to the commission of the offence by neglecting to exercise due control over such young person."

This clause definitely and distinctly throws the burden of proof on the prosecution before the parent or the guardian can be called upon to pay the fine. It is the prosecution alone that must establish that the offence was committed in furtherance of a movement and that the parent has not done anything by which it can be said that he neglected his duties, responsibilities and obligations. We tried our best in the Committee to throw this burden of proof on the prosecution, but to my surprise we could not carry this point. I still press that if this improvement is not made in the clause, I, for one, would like that the whole clause should be deleted. It is no doubt a great encroachment upon the rights of the guardian or parent and, in future, the prospective parent must be more careful that he does not come within the operation of this clause. I think it is also an encroachment against the commandments of God, "live and multiply" and there is great danger in carrying out the instructions of God. I submit that this should have no retrospective effect, but it should be applied only to the future children and I hope that those who will vote for the retention of this clause will do so with a full sense of responsibility. I support the amendment.

Major Nawab Ahmad Nawaz Khan (Nominated Non-Official): I oppose the amendment. Many Honourable Members do not realise the necessity for this clause, because they have had no personal experience. In 1930, when the civil disobedience movement was started, some of the lawyers in Dera Ismail Khan instigated the young children to take part in this movement. There were processions and young children of six, seven, or eight years of age went through the streets crying "Long live Revolution". They did not say so in English, but they cried "Inqilab Zindabad".

Pandit Satyendra Nath Sen: Does the Honourable Member deny that there may be innocent guardians or parents?

Major Nawab Ahmad Nawaz Khan: I will come to that. Through the bazaars it was very difficult for an official to pass. Batches of children would crowd round motor cars and cry "todi bacha hai hai" and "Inqilab Zindabad". Naturally the men who felt insulted would not beat the young children. On the Circular Road, ladies—European and Anglo-Indian—were stopped by small children.

Pandit Satyendra Nath Sen: And the parents are liable.

Major Nawab Ahmad Nawaz Khan: The Deputy Commissioner invited Hindu and Muhammadan gentlemen and said: "You are the Leaders, and the City Fathers of this City, you had better exert your influence". Many people came after two or three days and said they could not exert any influence. This was the reply. Mr. Yog Raj, an Extra Assistant Commissioner, was specially deputed to exert his influence among the Rai Bahadurs and Rai Sahibs and the Hindu Congressite members. After a few days' efforts, he came and plainly told about the wickedness of these people. They can stop these things, but they did not intend to do so. Outwardly they come before you and tell you, they are all with you, but when they go home, they tell their children to do as usual. So, may I ask the Honourable Members, if tomorrow such a thing is started in Delhi and passengers are hooted, jeered, by small children, what do you propose to do.

Pandit Satyendra Nath Sen: Are we to meet these hypothetical cases?

Major Nawab Ahmad Nawaz Khan: Naturally we cannot send these small children to jail; we cannot beat them so much as to make them unconscious. We thought the teachers and other people would at least tell the policemen the names of the fathers or mothers of these children, and it was requested by both Hindu and Muhammadan gentlemen that policemen should be allowed to slap or cane these boys. After four days, the whole trouble stopped. I think, after all this sad and bad experience, it is necessary that parents should be made responsible for these children. I oppose the amendment.

The Honourable Mr. H. G. Haig (Home Member): Sir, I think it is common ground on both sides of the House that children have been used in this movement in a very undesirable way. I think we all equally deplore this use of children, this bringing of children into the political movement. My Honourable friend, Mr. Lalehand Navalrai, has drawn a very melancholy picture of indiscipline in the younger generation. In fact he thinks that indiscipline has gone so far that there is no remedy at all. I shall return to that in a moment, but at this point I will merely say that I cannot accept that extremely gloomy picture. But admittedly there is a certain amount of indiscipline and steps have got to be taken to deal with this problem.

An Honourable Member: With the children or with the parents?

The Honourable Mr. H. G. Haig: I am coming to that in a moment if the Honourable Member will only exercise a little patience.

My Honourable friend, Pandit Ram Krishna Jha, while admitting and deploring these conditions, suggested,—and I do not want to differ from him,—that to some extent these conditions may have arisen from a defective system of education. For that he blames Government. Government are blamed always and for everything; but I would just like to remind him that for the last ten years education has been a provincial transferred subject and that, therefore, during that time one would hope that the Honourable Member might have done something to effect the improvements that he considers so desirable. But, Sir, the problem cannot be dealt with merely by blaming either the Government or the

responsible Ministries in the Provinces. We have a practical problem which has got to be dealt with now. It is quite true that some improvements in the educational system may gradually bring about a change in the conditions, but we have to do something now.

Well, Sir, when children commit offences of this kind it is of course possible to punish them. My Honourable friend, Mr. Thampan, suggested that they should be punished by whipping. Well, Sir, we, the British people, I think a great many of us, have a considerable belief in the utility of corporal punishment on proper occasions. But I do not think that on the whole public opinion in this country goes with us and I cannot help feeling that if Mr. Thampan put up this proposal before this House, he would secure very little support from the Opposition Benches to the suggestion that these children should be whipped. What other punishment remains? Imprisonment. Now, surely, it is most undesirable that young children should be sent to jail; I cannot imagine anything more undesirable. Therefore, we are driven to give up the attempt to find suitable punishment and we try instead to do what is always far better and that is to prevent. How can these activities be prevented? Our case is that they can be prevented by enforcing parental responsibility. Honourable Members opposite suggest that parental control has ceased to exist, that they are utterly powerless over their children and that the children do precisely what they like. Sir, if that is the present state of affairs, it has clearly got to be remedied. It is a deplorable social condition in any country, and some real effort has got to be made to remedy it. And this clause will do something to bring home to parents that they have a responsibility for looking after their children; and, I think, when they apply their minds to it, they will find that they can control their children and that they are not so powerless as some Honourable Members opposite suggest. Facts indeed bear out that contention. At the beginning of the civil disobedience movement, this nuisance from children was very serious. After this provision had been introduced, it diminished in a most marked manner. We have had reports from a number of Local Governments saying that as soon as this provision was introduced, the nuisance from children decreased to a very marked extent. Now, what had happened? Obviously the parents had applied their minds to the problem and had been able to exercise control and prevent their children taking part in these activities. That, Sir, is a very full justification for this provision. I oppose the amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That clause 8 of the Bill be omitted."

The motion was negatived.

Mr. S. C. Mitra: Sir, I beg to move:

"That in sub-clause (1) of clause 8 of the Bill, for the word 'sixteen' the word 'fourteen' be substituted."

My main ground is that due to climatic conditions in this country, youths attain maturity much earlier than elsewhere and sometimes they are precocious. So the age of sixteen is too high. Referring to the various Children's Acts, I find that a child has been defined as a person below the

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age of 14 years. So if it is necessary to have a provision like this, at least the age should not be sixteen years, but fourteen years. With these words, I move my amendment.

Mr. N. B. Gunjal (Bombay Central Division Non-Muhammadan Rural): (Speaking in the vernacular, the Honourable Member supported the amendment.)

The Honourable Mr. H. G. Haig: Sir, as the House is aware, there are various precedents in local legislation for provisions of this nature, and, in every case, the definition of young person is one who is under the age of 16. I think it is a very reasonable age limit to fix. We certainly do not want young persons between the ages of 14 and 16 sent to jail. Sir, I oppose.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in sub-clause (1) of clause 8 of the Bill, for the word 'sixteen' the word 'fourteen' be substituted."

The motion was negatived.

Mr. S. C. Mitra: Sir, I move:

"That in the *Explanation* to sub-clause (1) of clause 8 of the Bill, the words 'the charge of or' be omitted."

My purpose is that in the *Explanation* "guardian" has been defined to include any person who, in the opinion of the Court, has for the time being the charge of or control over the offender. I think anybody who has control over the offender or the young person might be punished; but the words "to have the mere charge of" are rather wide. It will be difficult for the headmaster of a school, having hundreds of students who are technically in his charge, if he has to pay the fines that might be inflicted on the students of the school: it will be really an impossibility. I think, on these considerations, the words "the charge of or" might be omitted, and the only element that has to be considered in making the guardian responsible for the conduct of his ward is when he has control over the offender.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Amendment moved:

"That in the *Explanation* to sub-clause (1) of clause 8 of the Bill, the words 'the charge of or' be omitted."

The Honourable Sir Brojendra Mitter: Sir, this is a drafting point; there is really not much substance in it and I refer my Honourable friend, Mr. Mitra, to the English drafting. I know he has Stroud with him (*An Honourable Member*: "Halsbury."), and if he will look at page 842. "guardian includes any person who, in the opinion of the Court, has for the time being the charge of or control over the child". It is, as I said, a drafting point and both these expressions have got definite meanings and they ought to be there.

Mr. B. V. Jadhav: With all due deference, Sir, I may point out that the word in the clause is not "guardian", but whether a person who is to be fined for the offence committed by a young person is to be the person in charge of or under whose control he is. And as the two persons,—one in whose charge he is, and the person under whose control he is, may be two different persons,—and, to be in charge of a boy merely makes the clause penal, I think I ought to support the amendment moved by Mr. Mitra.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in the *Explanation* to sub-clause (1) of clause 8 of the Bill, the words 'the charge of or' be omitted."

The motion was negatived.

Mr. Amar Nath Dutt (Burdwan Division: Non-Muhammadan Rural): Sir, I move the amendment that stands in my name, although from the attitude of the Government it were better not to put in any amendment; but only to register my protest and to show to the public at large the attitude of the Government that I have put down the amendment. I know full well that the Government will not accept any amendment whatever to what they think ought to be the law of the land under the present conditions. Still I move:

"That for sub-clause (2) of clause 8 of the Bill, the following be substituted:

"(2) No such order shall be made if the young person is not under the control of parent or guardian and maintained by such parent or guardian."

If I were to give reasons for the proposed amendment and attempt to try to convince the House of the reasonableness of this amendment, I think I would not take much time if they were really prepared to be convinced and really prepared to accept any argument or listen to any arguments on our side. As I have found from day to day that they will not listen and it is useless and futile for us to advance any argument, I shall refrain from doing so. But at the same time I submit that I do move my amendment knowing it to be a forlorn cause and I do not expect that the Government will accept even a reasonable amendment like mine. If it were necessary I have not got that precious little book about which my friend over there had a hit against me—he would not dare hit my Honourable friend, Mr. S. C. Mitra—but he knows that he can well hit me often and about the precious little book of Sir John Salmond which was read by the Honourable the Law Member the other day . . .

Mr. K. Ahmed: Which volume?

Mr. Amar Nath Dutt: I have not got that book with me, nor do I care to go through the book, because I know only such passages will be picked up by the Honourable the Law Member which will support his own argument and he would not care to look to the argument on the other side. That is really the duty of an advocate; in fact, even after becoming the chief law officer of the Crown, he has not forgotten that he was one of the most brilliant advocates of the Calcutta Bar . . .

Mr. President (The Honourable Sir Ibrahim Rahimtoola): It is desirable that the Honourable Member should come to the point.

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Mr. Amar Nath Dutt: It is to the point in this way: I do not like to put in all the arguments in favour of my amendment knowing full well that those will not be acceptable to them; be that as it may, since you have asked me to advance some arguments, I shall do so. In the old story in the fables, we know that the father of the lamb did some mischief and that was the charge against the lamb and, therefore, the lion devoured the lamb. In this case, the process has been just reversed. It is not the father who is the offender, but it is the son and, therefore, you must come down upon the father. I have heard the Honourable the Home Member while opposing the deletion of this clause and, I wonder, with all the pious phrases and the way in which he tried to convince us, really he can refuse to accept the amendment which I have submitted. He began by saying that it was common ground that the children had been used in an undesirable manner. I do not know where he found this common ground that children had been used in an undesirable manner. I for one can say that very few children of responsible parents have been found to be so used. That being so, I submit that it is not common ground, and it is merely assuming things which do not exist.

Then, my Honourable friend a few minutes later contradicting himself said that he would not accept the extremely gloomy picture drawn by my friend, Mr. Jha, about the present day youths. I do not know which of his statements should be accepted. If my friend really believes in the first statement which he made, namely, that children had been used in an undesirable manner, and if that is so, then certainly parents and guardians have control over them, and they are being maintained by them. So I say that they not merely control but also maintain them. One way by which parents can punish their children and prevent them from going wrong is by denying food and clothes. But it is also a fact that children sometimes go astray and parents have no control over them, and so I have used the words:

"no such order shall be made when the young person is not under the control of the parent or guardian and maintained by him."

If the Government were reasonable, I am sure they will not hesitate to accept this amendment. The Honourable Member accused us and said that the Government was always blamed by this side. I submit that they blamed sometimes unjustly, it may be, but mostly they are blamed for their unjust and unjustifiable acts. This is one of the instances in which you inflict vicarious punishment on the father for the sin of begetting a son.

Then, Sir, I would not refer to a casual remark of his when he said that during the last ten years education has been a transferred subject. We all know that, but, I am sure, he will not deny that the effect of the system of education that has been introduced into this country, the modern ideal, especially the ideas of communism, socialism and Bolshevism, all these are imported from the west—is really deplorable. In this land of ours, which is the home of ancient civilization and culture, certainly such wild dreams and wild ideas never existed, and I challenge my friend to point out to any scripture of the Hindus and the Muslims alike which advocates such wild ideas or theories as those advocated by Lennin and others. In fact, if you had not interfered with our civilisation and, if you had not imposed your own ideas upon us with a view to producing

a few clerks under you to serve you and help your administration, I think this class of youth about whom you complain now would not have been produced, and so it does not lie in your mouth to blame us.

Sir, I am really grateful to the Honourable the Home Member for the sentiment he expressed, because he said that in the matter of whipping public opinion will not favour it. Here we are really glad to find that the Honourable the Home Member is paying a homage to public opinion, and if he really pays such homage to public opinion, I do not think he will hesitate to accept this amendment.

Then, Sir, my friend also spoke of the deplorable social condition which he said was responsible for all this trouble. I say, it is not merely the deplorable social condition, but it is also the deplorable political and economic condition for which you are responsible

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order.

Mr. Amar Nath Dutt: No, Sir, not you (Laughter), because you are also a victim like myself. I mean the Government which are responsible for our present political and economic condition. This is neither the place nor the occasion to discuss that aspect of the matter. Here I am in the position of an advocate or an appellant before the Government to lessen the rigours of that Draconian law, and I do once more appeal, and I hope Government will accept this amendment.

Mr. B. V. Jadhav: Sir, I think equity will induce Government to accept this amendment. I support it.

The Honourable Sir Brojendra Mitter: Sir, what my Honourable friend, Mr. Amar Nath Dutt, is seeking to do is to give a new definition to "guardian". His definition has two elements, control and maintenance. Sir, it is a risky business to play with drafting which has been recognised in Statutes for many years without causing any difficulty or confusion. As I pointed out a short while ago, the definition of "guardian" in the Bill has been taken from the English law. It has been on the Statute-book for many years and it has given no trouble. Sir, I shall now show how my Honourable friend's definition would lead to absurdities. I mean no offence. Supposing there is a child or a young person, whose home is in Burdwan. His father lives in Burdwan and he sends that child to Calcutta for education, and the child lives with the father's brother in Calcutta, under the control of the latter. The father month by month sends Rs. 50 to his brother for the maintenance of the child. There the uncle has got the control, but the child is being maintained by the father. If my friend's definition is accepted, there must be both control and maintenance. In that case, the uncle would be excluded, although he has got the control, because the child is being maintained by the father. My friend's definition would certainly exclude the uncle, whom we want to get at. His definition is: "No such order shall be made if the young person is not under the control of parent or guardian and maintained by such parent or guardian". It is conjunctive. That will defeat the purpose of this clause, because in this case we want to enforce that guardianship authority is exercised by the uncle under whose

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care and control the child is living in Calcutta. But under my Honourable friend's amendment that uncle would be immune. That is the absurdity which I wanted to point out. Sir, I oppose the amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That for sub-clause (2) of clause 8 of the Bill, the following be substituted:

"(2) No such order shall be made if the young person is not under the control of parent or guardian and maintained by such parent or guardian."

The motion was negatived.

Mr. Lalchand Navalrai: I move:

"That in sub-clause (2) of clause 8 of the Bill, the words 'satisfies the Court that he' be omitted."

Sub-clause (2), as it now stands, reads as follows:

"Before making an order under this section, the Court shall give the parent or guardian . . . and no such order shall be made if the parent or guardian satisfies the Court that he has not conducted to the commission of the offence. . ."

If the words "satisfies the Court that he" are taken away, the clause would read as follows:

" . . . no such order shall be made if the parent or guardian has not conducted to the commission of the offence. . ."

If the words proposed are taken away, it will be upon the prosecution to prove that the parent or guardian has not conducted to the commission of the offence. I am only asking that the fundamental principle that burden of proof should always be on the prosecution should be maintained. The present clause is an un-British law and I want to make it British by the deletion of these words.

Mr. T. N. Ramakrishna Reddi (Madras ceded Districts and Chittoor: Non-Muhammadan Rural): I support this amendment. In this case it is not the offender that has to pay the fine. You are asking the parent or guardian to pay the fine, and that parent or guardian has not committed the offence himself. So the burden of proof must be on the prosecution that such a parent or guardian had a hand in the commission of the crime by the boy. What is the quantum of proof that is expected by the Government that the parent or guardian has to prove that he had no hand in the commission of this crime? The Courts will come with a determination that the boy has committed the crime, and any amount of proof by the parent will not avail them. For the last so many days we are trying by moving amendment after amendment, some very reasonable, to convince the Government to accept at least some amendments. They have come with a determination not to accept any amendment, and that will be exactly the position in regard to the Court. Though the parent has proved that he had absolutely no hand and that he was not at all in the know of what the boy had done, in spite of that, the Court will say, "No, no, without your connivance the boy would not have committed the crime". So, it is impossible for any guardian to prove that he was not responsible for the crime and it is no use simply asking the guardian that he should satisfy the Court that he has not

conducted to the commission of the crime. This is a case of vicarious suffering and hence the burden must always be on the prosecution to prove that the guardian had conducted to the commission of the crime. I beg to support the amendment.

Mr. S. C. Sen (Bengal National Chamber of Commerce: Indian Commerce): I support this amendment. In the Select Committee, we had a long discussion over this clause on whom the onus will lie. Precedent after precedent was cited. The Bengal Act, Bombay Act, C. P. Act, and Madras Act were also cited. They were all in one way and the clause, as drafted by the Select Committee, was put before the Select Committee which also shows that the onus was on the prosecution. But somehow or other that was subsequently changed and we now find the clause as it is now here. I will refer you to the Bengal Children's Act. There it says:

" . . . unless the Court is satisfied that the parent or guardian cannot be found or that he has not conducted to the commission of the offence by neglecting. . ."

That has been improved here by stating "unless the parent or guardian satisfies the Court that he has not conducted to the commission of the offence . . .". There the Court is to be satisfied; and here the onus is expressly put on the guardian to satisfy the Court that he has not conducted. Under these circumstances, I submit that the amendment which has been moved is in conformity with all the local Acts which are now in existence and also the English Act to which the learned Law Member referred in this House. I, therefore, support the amendment.

The Honourable Sir Brojendra Mitter: I hope the House will bear with me if I deal with this matter of onus in some detail. From the debate I gather that there is a good deal of confusion of ideas with regard to this question of onus. It is undoubtedly the law that onus in the first instance must be on the prosecution. It is also an accepted principle of the law of evidence that ordinarily the onus of proving the negative should not be imposed upon any party. But as Honourable Members are aware, all these principles are subject to exceptions and I shall come to the exceptions when I deal with the question of proving the negative. My learned friend, Mr. Lalchand Navalrai, as well as my learned friend, Mr. Sen, assumed that under the Children's Act the onus is upon the prosecution. I shall show that it is not so. The Children's Act says this:

"Unless the Court is satisfied that the parent or guardian cannot be found or that he has not conducted to the commission of the offence."

Sir, the Court has to be satisfied that the parent or guardian has not conducted to the commission of the offence. Very well. Who is to satisfy the Court? The test is this. The onus is on the party who would fail if no evidence were given. Supposing the prosecution gives no evidence as regards the parent's conduct and the parent also gives no evidence, then the Court is not satisfied one way or the other. Therefore, if no evidence is given, the parent loses. (Interruption by Mr. Lalchand Navalrai.) If you will kindly allow me to go on, I shall make the point perfectly clear. In section 102 of the Evidence Act, it is laid down that the burden of proof in a suit or proceeding lies on that person who would fail if no evidence at all were given on either side. Now, in this case,

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what happens? The prosecution succeeds in establishing the guilt of the child. The child is fined and the prosecution further satisfies the Court that the offence was committed in furtherance of the civil disobedience movement. The onus of all this was upon the prosecution. If the Court is satisfied, then the Court says, this is a case in which the fine will be recovered from the father. The prosecution gives no other evidence. The father gives no other evidence. What happens? The father has to pay. In the absence of evidence, the father fails and it follows that the onus is on the father. Sir, that is the law in the Children's Act despite what my friend, Mr. Navalrai, said: "Unless the Court is satisfied that the parent or guardian has not conducted to the commission of the offence."

Mr. S. O. Sen: Why not put the phraseology in that form?

The Honourable Sir Brojendra Mitter: That is another matter. I am dealing with one of your fallacies. I shall deal with the second fallacy now. I have shown that we are doing nothing extraordinary or in variance with the Children's Act. Then comes the question—on whom should the onus be placed? I say, the onus ought to be placed upon the parent or guardian. Here comes this question of proving the negative. I shall draw the attention of the House to a passage in Woodroffe's standard work on Evidence. I suppose even my friend, Mr. Amar Nath Dutt, will accept the authority of that book. At page 739, I am reading from the 8th Edition, it says this:

"As already observed, the first exception to the general rule that the burden of proof rests with the party who asserts the substantial affirmative is that it does not apply where there is a *prima facie* presumption one way or the other."

That is one exception. I am not now dealing with that particular exception of presumption. The obvious illustration of that is this. A man is found in possession of goods recently stolen. The onus is upon him to show that his possession is not guilty possession. That is an illustration of this presumption. The second exception is relevant to the present question. That exception to the above named general rule is stated in section 106 of the Evidence Act, namely, that where the subject matter of the allegation lies peculiarly within the knowledge of one of the parties, that party has to prove it whether it be of an affirmative or a negative character, and even though there be a presumption of law in its favour. As regards the quantum of parental control which is being exercised over a child, who has got peculiar knowledge of that fact—the Government or the father himself? It is within the peculiar knowledge of the father or guardian what amount of control is being exercised over the child. That being so, the onus of proving is upon the parent of the child. Section 106 of the Evidence Act says this:

"When any fact is especially within the knowledge of any person, the burden of proving that fact is upon him."

Whether it is an affirmative or a negative does not matter. In this case what has got to be proved is that on account of the absence of parental control, the child has gone astray. That is the issue before the Court. The Court says: "Well, here is your child who has been fined and you ought to pay the fine, unless you can show that the child was

not under your control or you have some other excuse". The person who has to prove excuse must have the onus upon him, the excuse being that the child was not under his control, that he lived in a distant place under the care of somebody else or whatever the excuse may be. I have shown that this is the law in the Children's Act and that ought to be the law in any Act. What we have provided for is this, that the parent or guardian can satisfy the Court that he has not conducted to the commission of the offence. The prosecution does not know what the relation between the father and the son is. Sir, the prosecution has to prove two things, first, that the offence has been committed in furtherance of an objectionable movement. That the prosecution must prove before the parent can be called upon to pay the fine and the prosecution must also show that the offence committed is such that fine is the appropriate punishment. It is only when these two requirements are satisfied, that the parent can be called upon to pay. When the parent is called upon to pay, he can come to the Court and prove that he has not conducted to the commission of the offence by any negligence on his part. That is within his knowledge. He alone can prove it. He can prove further that the offence for which he has been called upon to pay was not committed in furtherance of an illegal movement. We have given the parent two defences. One defence is that he was not guilty of any negligence, and the second defence is that the offence was not in furtherance of any such movement. Sir, where is the objection, either in theory or in law or in common sense to this provision? We have considerably modified the provisions of the Children's Acts and that was in deference to the wishes of the Members

Mr. S. O. Sen: How have you modified the provisions of the Children's Acts?

The Honourable Sir Brojendra Mitter: The point raised by my Honourable friend is not strictly pertinent to the amendment before us, but still I shall answer him. Sir, under the Children's Acts, all that is necessary for calling upon the parent to pay is that the young person is convicted of an offence punishable with fine. That offence need have no connection with an illegal movement. Now, we have restricted this clause to offences in furtherance of illegal movements. That is a material modification. Under the Children's Acts, whenever a child is fined, the parent can be called upon, but here we say, "a parent can be called upon to pay only if the offence was committed in furtherance of—(not even in connection with)—an illegal movement". Is not that a modification and a substantial modification?

Mr. S. O. Sen: That was already in the Ordinance.

The Honourable Sir Brojendra Mitter: What is the relevancy of that remark? If my Honourable friend thinks he will annoy me, he will fail in that. Sir, so far as onus is concerned, the onus was on the parent in the Children's Acts, and the onus is on the parent under this clause. I oppose the amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in sub-clause (2) of clause 8 of the Bill, the words 'satisfies the Court that he' be omitted."

The motion was negatived.

Mr. K. P. Thampan: Sir, I move:

"That in sub-clause (2) of clause 8 of the Bill, after the words 'to control the offender' the words 'or that the offender was not in his charge at the time of the commission of the offence' be inserted."

Sir, the object of my amendment is obvious. I want to extend the scope of the exception a little further, and that a guardian who has not got the offender in his charge at the time of the commission of the offence should not be liable to the punishment. Sir, the Honourable the Law Member, in reply to amendment No. 69, moved by my Honourable friend, Mr. Amar Nath Dutt, said that the word "guardianship" postulated two things: "the liability to maintain, and also the liability to control". Sir, my difficulty arises out of that explanation; otherwise I should not have cared to move this amendment after the disposal of my friend, Mr. Amar Nath Dutt's amendment. Now, in my part of the country, under the Marumakkathayam and Aliyasantanam laws, the legal guardian of a boy is his uncle. Thus my sons' guardians are their uncles. (An Honourable Member: "Not the father?") No. Now the boy of course lives with me or in the hostel and not in the Tarawad or uncle's house, because under modern conditions wife and children generally live with the husband and the father of the children. The uncle or legal guardian never maintains nor controls them. Of course, legally they are entitled to maintenance from the Tarawad, but very few give it, and cases for maintenance are instituted

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions: Muhammadan Rural): Then mend your own ways.

Mr. S. C. Mitra: Yes, mend your own nose first.

Mr. K. P. Thampan: What I mean to say is that so far as the parent or father with whom the children live is concerned, there is neither the liability to maintain nor the legal control which the Honourable the Law Member thinks the guardians have. So what I wish to say is that unless this clause is explained further and guardians in the circumstances mentioned are excluded from the scope of the clause, there will be trouble. Sir, I move.

The Honourable Sir Brojendra Mitter: Sir, I think my Honourable friend, Mr. Thampan's apprehension is not well-founded. If you look to the definition of the word "guardian", it includes "any person who, in the opinion of the Court, has for the time being the charge of or control over the offender". It is a question not of legal guardianship at all; we are talking of guardianship in fact,—that is one who has got the control of the child, who can control the movements of the child. We are not thinking of the legal right of guardianship.

Mr. K. P. Thampan: Then my trouble is more fancied than real?

The Honourable Sir Brojendra Mitter: I should think so. Then, further, in the defence that has been given under sub-clause (2), if the parent or guardian can satisfy the Court that he has not been negligent—and when there is no duty, there cannot be any negligence

Mr. K. P. Thampan: Sir, under our Marumakkathayam law, the uncle is the legal guardian.

The Honourable Sir Brojendra Mitter: What I mean to say is that if the child remains under the care and custody of A—B may be the legal guardian, but we are dealing with A under whose care and control the child was living when he committed the offence—then A has to satisfy the Court that he has not been negligent. We are dealing with the *de facto* guardian, not the *de jure* guardian and that is quite clear from the definition of the word "guardian". We never used the words "legal guardian".

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in sub-clause (2) of clause 8 of the Bill, after the words 'to control the offender' the words 'or that the offender was not in his charge at the time of the commission of the offence' be omitted."

The motion was negatived.

Mr. S. G. Jog: Sir, the amendment which stands in my name substantially aims at the same object which my friend, Mr. Lalchand Navalrai, has in view, but in a different way. The amendment runs thus:

"That in sub-clause (2) of clause 8 of the Bill, for all the words occurring after the words 'to control the offender, or' the following be substituted:

'until the Court is satisfied that the offence was committed in furtherance of a movement prejudicial to the public safety or peace'."

While making my speech in support of the amendment to delete the clause, I made my position perfectly clear as regards the burden of proof. The Honourable the Law Member charged this side of the House with a little confusion as regards the legal aspect of the point of burden of proof. So far as the other point is concerned, namely, that the parent has not taken due care or has neglected his ward, to that extent I feel inclined to concede that the section quoted by him is right. When the offence is in the knowledge of a party, then in that case the burden of proof lies on the party who is in possession of that particular knowledge. But as regards the other point, I should like to make the position clear. When the case goes on against the child the element of offence, so far as the child is concerned, is not that the particular offence with which he is charged was committed in furtherance of a movement which affected the public peace, etc. That element is not necessary to prove so far as the liability of the child is concerned, but when you want to hold the parent responsible for the fine imposed upon the child, then a further element is incorporated. If the offence for which the child is charged is done in furtherance of a movement which is prejudicial to the public peace and safety, then in that case alone the responsibility and the liability attaches to the parent. He is held responsible, because the child has committed a certain offence which is positively in furtherance of a movement which affects the public safety. That is a condition precedent in order to make the parent liable to pay the fine. Is it not necessary, is it not incumbent on the prosecution to prove that before the liability of the parent is established, that particular element ought to be proved against him? How can the Honourable Member say that this fact is particularly within the knowledge of the guardian, so that when the guardian comes forward, it is for him to raise that point by way of defence or by way of exemption that the offence was not committed in furtherance of a movement prejudicial to public safety or peace. I think it is doing the thing in a wrong way. The confusion, so far as this particular point is concerned, I submit, is not on this side of the House,

[Mr. S. G. Jog.]

but it is more with the Honourable the Law Member. Before attaching the liability to the parent, the prosecution must establish that the offence with which the child is charged was committed in furtherance of a movement prejudicial to the public safety and, therefore, the parent is responsible to pay the fine. I can concede that the fact that the child was fined need not be proved, because we can take it for granted that the child was fined, but there is a further element which is essential for imposing or fixing the liability to the parent.

Under these circumstances, I submit that the prosecution must prove that fact and in that case the burden of proof must lie with the prosecution. To that extent, I submit, that the wording of sub-clause (2) must undergo a change. I have already explained what transpired in the Select Committee. We press for it. Not only that, but we had a draft on the lines I have suggested in which it was distinctly said that the prosecution must prove that the offence was committed in furtherance of a movement prejudicial to the public peace. So far as the other element is concerned, namely, that the parent should take the proper care of the child, etc., that burden should lie on the parent.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Amendment moved:

"That in sub-clause (2) of clause 8 of the Bill, for all the words occurring after the words 'to control the offender, or' the following be substituted:

'until the Court is satisfied that the offence was committed in furtherance of a movement prejudicial to the public safety or peace'."

The Honourable Sir Brojendra Mitter: Sir, if I have understood my learned friend, Mr. Jog, correctly, his point is that the fact that the offence was committed in furtherance of an illegal movement should be proved by the prosecution before the parent or guardian can be called upon to pay the fine. Sir, under sub-clause (1), the onus is upon the prosecution. Sub-clause (1) says this:

"Where any young person, under the age of sixteen years, is convicted by any Court of an offence which, in the opinion of the Court, has been committed in furtherance of a movement prejudicial to the public safety or peace."

Sir, unless the prosecution can prove that the offence was committed in furtherance of an illegal movement, this clause does not come into play. Therefore, under sub-clause (1), the onus is upon the prosecution. Why my learned friend, Mr. Jog, thinks that the onus is not on the prosecution, I cannot understand. It is only when the prosecution has satisfied the Court that the offence was committed in furtherance of an illegal movement that the Court can ask the parent to pay the fine.

Mr. S. C. Sen: Sir, there is a similar amendment standing in my name also.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member is entitled to speak and the Chair has called upon him to do so.

Mr. S. C. Sen: Sir, we had a full discussion about this matter in the Select Committee and I then pointed out that the onus ought to be on the prosecution to prove that the offence was committed in furtherance

of a movement as mentioned in this clause. The Honourable the Law Member has now referred to the earlier portion of this clause, namely, sub-clause (1), where it is said:

"Where any young person, under the age of sixteen years, is convicted by any Court of an offence which, in the opinion of the Court, has been committed in furtherance of a movement prejudicial to the public safety or peace."

Now, Sir, before the Court can order or before the Court can call upon the parent to appear before it, the Court must be satisfied upon *ex parte* evidence given in the absence of the guardian. A guardian does not come in until he is being called upon to come before the Court to show cause, whatever it is. Therefore, the onus, even in the presence of the guardian, ought to be on the prosecution to prove as against the guardian, in his presence, the affirmative that the offence has been committed in furtherance of such object. How is the onus discharged? On the other hand, sub-clause (2) says:

"before making an order under this section, the Court shall give the parent or guardian an opportunity to appear and be heard, and no such order shall be made if the parent or guardian satisfies the Court that he has not condoned to the commission of the offence by neglecting to control the offender, or that the offence was not committed in furtherance of a movement prejudicial to the public safety or peace."

How is the onus then on the prosecution? Whatever the Magistrate may say, it has upon *ex parte* evidence not taken before the parent. The sentence of fine is there, the fine against son, and the parent is then called upon to pay as if he is the guilty person and, therefore, the onus must be on the prosecution to bring home the guilt to the parent, namely, that the offence was committed in furtherance of an illegal object. I, therefore, say that the amendment moved by Mr. Jog is perfectly in order, and the Honourable the Law Member admitted a few minutes ago that the onus was on the prosecution to prove this fact. But this is *ex parte*, it is in the absence of the accused. Is that a proper discharge of the onus? The Law Member states that when the guardian is called upon to pay there would be two issues. Firstly, the committal of the offence, and secondly, that the offence has been committed in furtherance of this object. These are to be proved by the prosecution. Thereafter, he said, if the parent wanted to get rid of his liability, he must disprove the presumption of parental control, the onus to disprove is on the parent himself. We want all these things to be clearly put. That is the object of the amendment.

The Honourable Mr. H. G. Haig: Sir, my Honourable friend, Mr. Sen, has developed apparently a very learned argument, but the point, as far as I understand it, is perfectly simple. It is provided in sub-clause (1) of this clause that if in the opinion of the Court an offence has been committed in furtherance of a movement prejudicial to the public safety or peace, the Court may order that the fine should be paid by the parent or the guardian, that is to say, the Court must have certain definite reasons put forward by the prosecution for coming to that conclusion, but before reaching its final conclusion and when merely a *prima facie* case has been established, it is provided that the Court before making its order should give the parent or the guardian an opportunity to appear and rebut that presumption. That appears to me to meet in every way the requirements of justice. I oppose the amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in sub-clause (2) of clause 8 of the Bill, for all the words occurring after the words 'to control the offender, or' the following be substituted:

'until the Court is satisfied that the offence was committed in furtherance of a movement prejudicial to the public safety or peace'."

The motion was negatived.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That clause 8 stand part of the Bill."

The motion was adopted.

Clause 8 was added to the Bill.

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

The Assembly re-assembled after Lunch at Thirty-Five Minutes Past Two of the Clock, Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Clause 9.

Mr. S. C. Mitra: Sir, I beg to move:

"That clause 9 of the Bill be omitted."

One could understand the anxiety of Government to punish a man who was trying to do some mischief. When a man is found guilty, the Courts will no doubt inflict adequate punishment, but why should the ordinary procedure laid down for trial of cases be departed from? There are four parts in this clause. In the first sub-clause, trial is confined to the Court of a Presidency Magistrate or a Magistrate of the first class. It may be said that it is a precautionary measure and only experienced and able Magistrates should try these cases. But I find that, as a matter of practice, it cuts the other way also. If these petty cases are brought before second class or third class Magistrates, whose power to inflict severe punishments is limited, there is some chance of the offences being visited with lighter punishments. So, why should there be this provision that for these minor offences the trial should be confined to Magistrates who can inflict heavier punishments? Sub-clause (ii) says that an offence punishable under section 2, 3, 5, 6 or 7 shall be cognizable by the police. As regards section 2, which deals with dissuasion from enlistment in the Military, Naval or Air Forces or even as regards section 3 which deals with tampering with public servants, I have not much to say. But as to the other three sections, I do not see why it should be cognizable by the police. It means that the police, even under these sections, will arrest without warrant. Section 5 is dissemination of the contents of a proscribed book, section 6 is dissemination of false rumours and section 7 is picketing.

In these cases I do not see why there should be arrest by the police without warrant and why this provision has been specially made. In sub-clause (iii), it is said that an offence punishable under section 4, that is, boycott of public servants, shall be an offence in which a warrant shall ordinarily issue in the first instance. If it is not with the purpose of prejudicing the mind of the Magistrate that Government are anxious to secure a conviction, why is there this special provision that warrants shall ordinarily issue? It should be left to the Magistrate to issue a summons or a warrant. And now the fourth sub-clause says that an offence punishable under section 7, that is, the picketing section, shall be non-bailable. It is nobody's case that the civil disobedience people or the Congress people are anxious to escape trial or conviction. So I do not see why it should be particularly made non-bailable. For all these reasons I think there is no special case made why in this emergency legislation the ordinary criminal procedure should not be followed. Sir, I move the deletion of this whole clause as I think it is unnecessary.

Mr. B. V. Jadhav: Sir, I support the amendment.

Mr. N. E. Gunjal: (Speaking in the Vernacular, the Honourable Member supported the amendment.)

The Honourable Mr. H. G. Haig: Sir, it has been said in the course of these debates that it is difficult to please the Opposition. We had an illustration of that yesterday when the Opposition criticised very severely the *Explanation* to clause 7, and then, when we said, by all means delete it, they preferred to retain it. Now, in the same way, with reference to the first sub-clause of this clause, in the debates in Simla, a great point was made of the fact that these new offences,—some of them requiring careful examination and discrimination,—were triable by Magistrates of any class. We met that criticism, and provided that they should be triable only by Magistrates of the first class, only to find my Honourable friend, Mr. Mitra, criticising us on another ground. It is obvious that we can do nothing which will satisfy all sections of the Opposition. With regard to sub-clause (ii), these are offences the continued commission of which it is most important to put a stop to, and for that reason, in order that the powers can be really effective, it is most important that the offences should be made cognisable by the police. Take for instance the case of picketing. If the police are not able to arrest the picketer, it is very difficult for them to take effective action to stop picketing. With regard to sub-clause (iii), owing to the special nature of the offence of boycotting, we have provided a special procedure so that a Court should not take cognizance of an offence unless upon complaint made by due authority. That makes it impossible for the offence to be cognisable. But the offence in itself is a serious offence and I submit that it is entirely justifiable that when the complaint is duly authorised, a warrant should issue. And, finally, sub-clause (iv) makes the offence of picketing non-bailable. There, again, if the picketer immediately he was arrested could offer bail and go on with his picketing, it would make the task of the police a difficult one. Sir, I oppose the amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That clause 9 of the Bill be omitted."

The motion was negatived.

Mr. Lalchand Navalrai: Sir, I move:

"That in part (ii) of clause 9 of the Bill, the figures "2, 3, 6" be omitted."

Figure 2 refers to clause 2 which relates to dissuasion from enlistment, clause 3 refers to tampering with public servants and clause 6 refers to the dissemination of false rumours. My amendment aims at requesting that offences under these three clauses should not be made cognisable. During the debate on this, the Honourable the Home Member said that if these offences were not left to the police to be dealt with as cognisable, false or malicious complaints might be made by particular persons out of grudge. Now, my reply to that is very clear. If a complaint is made by a private man which is false or frivolous, the first opportunity for the Magistrate before whom the complaint will be lodged, will be to follow the procedure of satisfying himself whether the complaint is true or false by examining the complainant under section 200 of the Criminal Procedure Code; and then, later on, if he finds that it is false or frivolous, he can fine such a man under section 250, Criminal Procedure Code. In a like manner there is a section in the Indian Penal Code—section 211—under which a man can be prosecuted and punished for making a false complaint. So these are the safeguards already and, therefore, it will on the contrary be easier for private complaints being made to the police out of grudge. It is hardly expected that the police officer would satisfy himself in such a way as to be sure that the complaint is not false. The second ground, in my submission, with regard to this, is that these offences are made very heinous and very drastic, and they are of a novel character. I think it is for the first time that the Legislature is making laws like this: of course we know that laws like this have been in this country under the Ordinances, but that is a different question altogether. When the matter comes now before a responsible Legislature to consider whether they should give sanction to these offences, at any rate it lies very heavily upon this House to consider whether any safeguards which are reasonable should be put or not. Then, my third reason is that I find that more serious offences when actually committed—here only attempts or fears are made punishable,—against public servants are non-cognisable and bailable. I would only refer to Chapter X of the Indian Penal Code which comprises of offences committed against public servants. I find section 186—obstructing a public servant in the discharge of his public functions—is not cognisable and bailable. Then, again, the next section 187 deals with omission to assist a public servant when bound by law to give assistance, a much more serious offence. This is also non-cognisable and bailable. Then we have wilful neglect to aid a public servant for the purpose of execution of process and disobedience of an order lawfully promulgated by a public servant if such disobedience causes obstruction, annoyance or injury to a person lawfully employed, and then threatening a public servant with injury to him or to one in whom he is interested, and then threat of injury to induce a person to refrain from applying for protection to a public servant—these are all offences more heinous; yet they are all bailable and non-cognisable. Thus there is absolutely no reason why the offences under the clauses of this Bill should be made cognisable.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Amendment moved:

"That in part (ii) of clause 9 of the Bill, the figures "2, 3, 6" be omitted."

The Honourable Mr. H. G. Haig: Sir, I have already by anticipation dealt generally with the points made in this amendment. The general answer to the contentions of the Honourable Member, Mr. Lalchand Navalrai, is that these are all offences the immediate stoppage of which is very essential and, unless the offence is made cognisable, it is not easy to provide an effective and immediate deterrent to its continuance. In regard to some of the sections of the Penal Code which the Honourable Member suggested were of a somewhat similar character and were now non-cognisable and bailable, I would invite his attention, if he is at all concerned with our lack of consistency, to the next clause, clause 10, and he will find many of them included there. Sir, I oppose the amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in part (ii) of clause 9 of the Bill, the figures "2, 3, 6" be omitted."

The motion was negatived.

Mr. S. O. Mitra: Sir, I move:

"That Part IV of clause 9 of the Bill be omitted."

Clause 4 deals with an offence punishable under section 7. By this emergency legislation we are creating new offences. Clause 7 deals with picketing, and in future even peaceful picketing will be prohibited. Therefore, there is no reason why this offence should be made non-bailable. As I have said previously, it is very unlikely that offenders will try to escape, and there is no reason why section 7 should be made non-bailable.

Mr. B. V. Jadhav: Sir, I rise to support this amendment. When the previous amendment was moved by my friend, Mr. Mitra, for the deletion of the whole clause, the Honourable the Home Member dealt with the various sub-clauses of this clause and said that in order to stop picketing, the offence should be made non-bailable. I do not think it is necessary to make this offence non-bailable, because when a picketer is arrested by a policeman, he has to be taken to the nearest police station, because the policeman cannot afford to accept bail at the place where the man is arrested, and, therefore, the offender will have to be taken to the nearest police station and there the bail has to be arranged, and, in the ordinary course, it will take some time. Therefore, the fear that is entertained that the same man will offer himself for picketing and thus create an interminable amount of work for the police is without foundation. The maximum punishment for this offence is only six months, and, therefore, such an offence does not deserve to be made non-bailable. I, therefore, heartily support this amendment.

Raja Bahadur G. Krishnamachariar (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural): Sir, I wish to say only very few words in support of this amendment.

It has been held in all the High Courts that the only criterion upon which an offence should be declared bailable or non-bailable, the only standard on which a person, even though arrested for a non-bailable offence, should be released on bail or not is whether he would appear at the trial and stand it. That is the only condition on which the Courts say they would either grant bail or

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[Raja Bahadur G. Krishnamachariar.]

refuse it. Now, whatever may be said in favour of or against these picketers, one thing is clearly declared by them, that is, they are not the people to run away. They come to the Courts and stand their trial. The trying Magistrates ask them if they have anything to say. They say "No". They make no defence; they do not trouble the police or the Courts by any elaborate arguments in justification of their action, and they are not persons who are afraid of Courts. Therefore, why make this offence non-bailable at all?

Then, Sir, I was surprised to hear the Honourable the Home Member saying,—I hope I have heard him properly,—I was surprised to hear my friend say that if you release this man on bail, you will never be able to have a proper inquiry. I know in the Courts of some Magistrates invested with first or second class powers, when a person is arrested and brought before them, the police always get up and say: "Oh, don't release him; if you release him, our business is gone". Those of my friends who are lawyers will support me when I say that this is invariably the argument which is advanced by the police. They have nothing else to say. A man is arrested; the Counsel appears and applies for bail, and the only reply that the Public Prosecutor or the police have to say is: "Oh, don't release him, because our business will be spoiled". Now, what is this business? In Hyderabad, there was an old Commissioner of Police who specifically wanted time, that is to say, extending the remand of the accused person for Mollama Gowaan, that is to say, tutoring witnesses, and they put that in black and white there. I am not exaggerating. If, therefore, you want to have Mollama Gowaan, it is all right, otherwise what do you want to harass him for? You arrest him for things which are of a doubtful nature over which we have had long discussions. Now, you take him into your custody

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Chair does nothing of the kind.

Raja Bahadur G. Krishnamachariar: I am afraid, Sir, that something has gone wrong with me that I have always to appeal to the Chair to support me and the Chair will not support me and leave me to the tender mercies of the official block. I apologise to you, Sir. Really speaking, the whole argument is addressed to the Government. There is one clause which I have not been able to understand, and that clause says, always address the Chair. If I address the Chair, the Chair says: "I don't want to hear you". I do not know what to do.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member's long judicial experience should tell him that when he is addressing the Chair, he has to follow the simple procedure of using the third person instead of the second.

Raja Bahadur G. Krishnamachariar: Very well, Sir, I will try. When I make the mistake, I would ask to be excused, but I don't do it wilfully or out of any disregard for the dignity of the Chair.

Sir, I was speaking on the question of harassment to the picketer. I did not speak on the first amendment, because I wanted to see how the Home Member was going to support clause 4. What he said was, this argument of a second grade pleader before a second class Magistrate on

behalf of the police saying that he will not be able to offer Mollama Gowaan. I hope that is not the ground that compels you to make this offence non-bailable. Therefore, it is not that you want to bring the man to justice, but it is pure and simple harassment. Sir, I have no sympathy for these people. I do not belong to their party. I have severed all my connection with them long long ago, but when I find that you are enacting a law in the highest tribunal here, and when you are enunciating a proposition which, I very respectfully submit,—and I ask the Law Member to say whether I am right or wrong,—is dead against every principle that has been laid down by the High Courts, I feel that you are not doing the right thing, and, therefore, I support this amendment.

The Honourable Mr. H. G. Haig: Sir, my friend who sits behind me as usual has treated the House to various reminiscences dating, I suppose, from the time when he was not, as he described myself, a second grade pleader, but no doubt a first class Advocate. At the same time, Sir, when this first class Advocate is quoting the arguments which have been used, he might have been pleased to do me justice by quoting them with some approach to accuracy. He said that I had supported this provision on the ground that otherwise the police would never be able

Raja Bahadur G. Krishnamachariar: I spoke subject to correction. I did not hear properly.

The Honourable Mr. H. G. Haig: I said nothing of the sort. My argument never approached that point. And I would suggest that when my friend does not hear me in future, he should at any rate refrain from misrepresenting me. The reason for making this offence non-bailable I have already explained in my answer to the first amendment on this clause. It is that if the offence is bailable, the picketer arrested goes off after getting bail and is back again either the same day or the next day engaged once more on picketing. That is not the way in which it will be possible for the police effectually to deal with this curse of picketing. I do not think, Sir, there is any other point that I need make, and I oppose the amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question I have to put is:

"That Part IV of clause 9 of the Bill be omitted."

The motion was negatived.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That clause 9 do stand part of the Bill."

The motion was adopted.

Clause 9 was added to the Bill.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That clause 10 do stand part of the Bill."

Mr. S. C. Mitra: Sir, I move:

"That clause 10 of the Bill be omitted."

In the previous clause we were dealing with newly created offences and we tried to induce Government to make the offences not cognisable by the police or make them bailable. This clause deals with the old sections of the Indian Penal Code which have been in operation for a number of years, and an attempt is now being made to make them more rigorous by making them cognisable and some non-bailable. Section 186 deals with obstructing a public servant in the discharge of his public functions. Section 188 deals with disobedience to duly promulgated orders; section 189, threat of injury to public servants; 190, threat of injury to persons to refrain them from applying for protection from a public servant; and section 228 deals with intentional insult to public servants sitting in judicial proceedings. That is one group. Another group is section 295A which deals with outraging religious feelings; section 298, wounding religious feelings by uttering words. Section 505 deals with public mischief, and 506 and 507 with criminal intimidation. All these sections were so far non-cognisable; that is to say, the police had no right to arrest the alleged offenders without a warrant of arrest from the Court. I do not know what special evidence the Government have now that all these sections have failed to attain their object during all these years. Again, offences under section 188 or section 506 are made non-bailable. I do not know what fresh facts in connection with the Congress movement or the civil disobedience movement have come to light for a change in the established law which has served the purpose for all these years. So, whatever may be the reasons for creating new offences, at least the old law should not be unnecessarily tampered with. Sir, I move the deletion of the whole clause.

Mr. S. C. Sen: I have no desire to take part in this discussion but for the fact that I want to point out to the Honourable the Home Member that whatever attempt he may make to supplement the provisions of the local Acts, the Local Governments do not require his help at all. I refer to section 22 of the Bengal Suppression of Terrorist Outrages Act, 1932, passed by the Bengal Government only recently. The section says:

"Notwithstanding anything contained in the Code, an offence punishable under section 160, 186, 187, 188, 189, 227, 228, 505, 506, 507 or 508 of the Indian Penal Code, or under section 17 of the Indian Criminal Law Amendment Act, 1908, shall be cognizable and non-bailable."

Mr. S. C. Mitra: That is more comprehensive.

Mr. S. C. Sen: Here with the greatest difficulty we make the Home Member see that these offences should not be made non-bailable, but in the Bengal Act they are all made non-bailable. We are, therefore, in this dilemma whether the Bengal Act is the correct one, or the Imperial Act. We believed that the Home Member brought these forward because he thought that the Bengal Government had no power to change the Criminal Procedure Code, but we now find that the Bengal Government are quite capable of looking after their own interests irrespective of the help of the Government of India. I ask the Honourable the Home Member to let us know which one will prevail so that we may know our position in Bengal.

The Honourable Mr. H. G. Haig: The object of this clause is to secure that offences which are almost without exception those that are likely to be committed in connection with the civil disobedience movement, or movements of that character should, if the Local Governments so require, be made cognisable and non-bailable, and the general justification for that is that which I have already explained in relation to the clause that has just been passed. With regard to the point made by my Honourable friend, Mr. Sen, I have not with me at the moment a copy of the Bengal Suppression of Terrorist Outrages Act, but my recollection of that Act is that it was passed for a very definite purpose, namely, to deal with terrorist offences in Bengal. Here we are dealing with a much wider and more general purpose. So far as conditions in Bengal are concerned, I take it that it is only in connection with offences of that type that section 188 and so on are non-bailable. I should be glad to be corrected if I am wrong. If that is so, I do not think that the dilemma which my Honourable friend has presented to me is a real one.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question which I have to put is:

"That clause 10 of the Bill be omitted."

The motion was negatived.

Mr. S. C. Mitra: Sir, I move:

"That sub-clause (2) of clause 10 of the Bill be omitted."

Having failed to carry the deletion of the whole clause, I confine my motion to sub-clause (2) alone. Here offences under section 188 and section 506 of the Indian Penal Code have been made non-bailable. Section 188 deals with disobedience to order duly promulgated by a public servant, and the punishment provided is simple imprisonment for one month or fine of Rs. 200 or both. The other section, 506, deals with criminal intimidation. That is also a compoundable offence. So I think that these two sections should not be non-bailable and my amendment is for the deletion of this sub-clause.

Mr. B. V. Jadhav: I support the amendment.

The Honourable Mr. H. G. Haig: I do not think I need add anything to the considerations I have already referred to in connection with clause 9. I oppose the amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That sub-clause (2) of clause 10 of the Bill be omitted."

The motion was negatived.

Clause 10 was added to the Bill.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Clause 11.

Mr. S. C. Mitra: In clause 11, provision is made to the effect that the Governor General in Council may, by notification in the Gazette of India, declare an association to be unlawful. Under section 16 of the Criminal Law Amendment Act of 1908, the Local Governments had that power. Now attempt is made to give the same power for the Governor General in Council also. In the areas that are directly under the Government of India, I think there are local authorities and the Chief

[Mr. S. C. Mitra.]

Commissioners have the right to promulgate these orders. I shall be glad to know what are the special reasons after so many years for providing that the Governor General in Council should have that power also.

The Honourable Mr. H. G. Haig: The Criminal Law Amendment Act, as originally passed, provided that associations should be declared unlawful by the Governor General in Council. At a later date, by a general Devolution Act, provision was made devolving these powers on Local Governments but, through what I think was inadvertence, while delegating these powers to Local Governments, steps were not taken to retain them for the Governor General in Council. That is an obvious omission in the law and the object of this clause is to remedy that omission. It may well be that a particular unlawful association is not confined to one province alone and it may, therefore, be necessary for the Governor General in Council to take action in particular cases as well as for Local Governments to have the same power.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That clause 11 do stand part of the Bill."

The motion was adopted.

Clause 11 was added to the Bill.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Clause 12.

Mr. S. C. Mitra: I move for the deletion of clause 12. My argument is simply the same, that non-cognisable offences should not be made cognisable, nor bailable offences be made non-bailable.

The Honourable Mr. H. G. Haig: We have argued the general question more than once. I would say with regard to this clause that it is a matter of the very greatest importance and has been found to be so in dealing with the present movement—that this particular offence should be cognisable and non-bailable.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That clause 12 of the Bill be omitted."

The motion was negatived.

Clause 12 was added to the Bill.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Clause 13.

Mr. B. V. Jadhav: I move:

"That clause 13 of the Bill be omitted."

That clause provides for the insertion of a number of sub-clauses in the Indian Criminal Law Amendment Act after section 17 of that Act. 17A is power to notify and take possession of places used for the purposes of an unlawful association. Then 17B and 17C, and so on. These are very drastic additions. They take away the liberty of the subject and

in a way are very tyrannical. Then there is the question of movable property being taken possession of and forfeited to Government. These provisions are very objectionable and, therefore, I move that the whole clause be deleted.

The Honourable Mr. H. G. Haig: Clause 13 confers certain powers which I need not specify at length, for they will be dealt with in the amendments put down on the paper. They have been found particularly useful in the Presidency from which the Honourable Member who has just spoken comes. They have been found to be most essential for coping with this movement of civil disobedience. The organisations, particularly in the Bombay Presidency, function from well known headquarters either in the city of Bombay or in various village centres and since those headquarters were openly functioning in defiance of the authority of Government the effect on the population generally was to establish the belief that these organisations were in effect parallel powers to Government and were successfully setting up their authority against the authority of Government. When powers were taken to seize these headquarters and to forfeit the movable property and in other ways to disorganise, what I may call, the headquarters organisation, the effect was very marked and rapid and I would venture to impress on the House that this clause is one of those to which the Government attach the greatest importance.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That clause 13 of the Bill be omitted."

The motion was negatived.

Mr. S. C. Mitra: Sir, I move:

"That in clause 13 of the Bill, in the proviso to sub-section (2) of the proposed section 17-A, for the words 'women or children' the words 'any person' be substituted." Sir, in this clause there is power given to "the District Magistrate or, in a Presidency-town, the Commissioner of Police, or any officer authorised in this behalf in writing by the District Magistrate or Commissioner of Police, as the case may be" to "take possession of the notified place and evict therefrom any person found therein, and shall forthwith make a report of the taking possession to the Local Government". There is a provision that:

"where such place contains any apartment occupied by women or children, reasonable time and facilities shall be afforded for their withdrawal with the least possible inconvenience."

Now, my amendment is that reasonable time and facilities will be necessary not only in the case of women and children, but in the case of any person who may be there. I do not see why Government may not accept this suggestion that reasonable time and facilities should be given to all persons and not women alone.

Mr. B. V. Jadhav: Sir, I rise to support this amendment. In the Select Committee, the Government were very kind to insert this proviso regarding the granting of reasonable time and facilities to women and children. Now, the plea is put forward that the same leniency should be shown to even males also, and I do not see why that concession should not be so given. If any men are found to be offending against the laws, then of course they will be taken away under the non-bailable clauses

[Mr. B. V. Jadhav.]

by the police and the question of giving facilities to them does not arise. The concession is asked for persons who are not concerned at all in the work of the unlawful association; and, so, if women and children are to be given facilities—and they ought to be given facilities of course—the same facilities ought to be extended to men also who are not at all concerned in the work of the unlawful association; and I, therefore, support this amendment.

The Honourable Sir Brojendra Mitter: Sir, when this Bill was introduced, it was not thought necessary that any such provision should be made in the case of the premises to be taken possession of. It was contemplated that such premises should be vacated without delay. But it was pressed upon us that it might be inconvenient for women and children to vacate the premises actually occupied by them, all at once and that special mention should be made of women and children. Not that it is likely that the Magistrate should harass them, but that still, for the sake of greater caution, women and children should be specifically mentioned. We do not think it is at all necessary, but, in order to meet the Opposition, we are quite agreeable to have that provision. The same facilities are not, however, necessary in the case of male adults, and there is no reason why the concession made to women and children should be extended to males also. I oppose the motion.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in clause 13 of the Bill, in the proviso to sub-section (2) of the proposed section 17-A, for the words 'women or children' the words 'any person' be substituted."

The motion was negatived.

Pandit Satyendra Nath Sen: Sir, I rise to move.

"That in clause 13 of the Bill, in the proviso to sub-section (2) of the proposed section 17-A, for the words 'women or children' the words 'a woman or a child or an invalid' be substituted."

Sir, this amendment seemed to me to be so reasonable that I was hesitating whether I should move it, because, by moving it, I would be giving the Government an opportunity to say that they have accepted some amendment which has been proposed by the Opposition. Sir, the words that occur in the Bill are "women or children". I do not know whether the plural number used there is deliberate. However, I want to put the words in the singular and I have also added the words, "an invalid". Sir, there is no doubt that women and children are deserving of the greatest sympathy and consideration, and Government are prepared to make provision for them, but I beg to point out that owing to the indefatigable efforts of such gallant Knights as Sir Hari Singh Gour and Sir Harbilas Sarda (Some Honourable Members: "He is not a 'Sir'.") A prospective 'Sir', no doubt, the condition of Indian women has been ameliorated and some of them in fact are growing to be more masculine than men. But invalids are always helpless and utterly helpless. They cannot be expected to vacate immediately if proper facilities and reasonable time are not afforded to them. Suppose

an invalid is suffering from cholera or small-pox. How can you expect that he should be able to vacate forthwith? It would be most unreasonable and inhuman to expect him to do that. Sir, we have been watching the attitude of Government during the last few days and I will not be very much surprised if the Honourable the Law Member or the Honourable the Home Member will stand up and say that there may be some bogus cases of invalidism, and that in order to exclude those bogus cases they are not prepared to make any provision for any such case whatsoever on that ground. If that be their position, I might also tell them that if there might be bogus invalids, there might be bogus women also. (Laughter.) If they are prepared to make consideration for women and children, they should make consideration for invalids also. Sir, I move.

Mr. Amar Nath Dutt: Sir, I have no such nervousness about the reasonableness of my Honourable friends opposite as my friend has. So far as the merits of this Bill are concerned, reasonable or unreasonable, they will have it. Well, that being so, my friend apprehended that in order to appear to show a reasonable attitude, the Government might accept his amendment and, therefore, he said he was hesitating to move it. I can assure him, however, as I have been watching the Honourable Members opposite, that they are not going to accept his amendment, coming as it does from my friends on this side, because the Government fear there must be something in it which probably they might not yet have discovered, but which might occur to them afterwards.

The Honourable Sir Brojendra Mitter: I have discovered that.

Mr. Amar Nath Dutt: Sir, on the merits, there is no doubt that my friend's amendment is an eminently reasonable one, and far more than women and children is the protection to invalids necessary. But I do not expect the Government to accept this motion, however reasonable it may be. Then, again, I do not see any necessity for moving an amendment like that, because you will find that everything has been left to the discretion of the officers concerned. If they do not choose to act as provided in the proviso, there is nothing to prevent them from doing so. That being the case, it is only a pious wish that has been expressed in the proviso or it is meant to hoodwink those who will not see the real meaning of it. The proviso says:

"where such place contains any apartment occupied by women or children, reasonable time and facilities shall be afforded for their withdrawal."

Am I to understand that if this provision was not there, no reasonable time even to women and children would have been given? If the Government assure me that that is their apprehension, then once in my life I shall be with them, because in that case, I would take it that they see eye to eye with the grievances of the people and they know exactly what their subordinates are likely to do. In this state of things, I think I had better lend my support to the amendment of my Honourable friend rather than depend upon the sweet reasonableness of my friends over there.

The Honourable Sir Brojendra Mitter: Sir, I oppose the amendment as wholly unnecessary. We might as well add in this clause a woman, a child, or an invalid, or the blind or the maimed or the deaf and the dumb. We might go on adding to the list. It is wholly unnecessary and I oppose it.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in clause 13 of the Bill, in the proviso to sub-section (2) of the proposed section 17A, for the words 'women or children' the words 'a woman or a child or an invalid' be substituted."

The Assembly divided:

AYES—37.

Abdur Rahim, Sir.
Aggarwal, Mr. Jagan Nath.
Aashar Ali, Mr. Muhammad.
Bhuput Singh, Mr.
Chetty, Mr. R. K. Shanmukham.
Dutt, Mr. Amar Nath.
Gour, Sir Hari Singh.
Gunjal, Mr. N. R.
Harbans Singh Brar, Sirdar.
Iera, Chaudhri.
Jadhav, Mr. B. V.
Jog, Mr. S. G.
Krishnamachariar, Raja Bahadur G.
Lalchand Navalrai, Mr.
Mitra, Mr. S. C.
Mody, Mr. H. P.
Muazzam Sahib Bahadur, Mr.
Muhammad.
Murtuza Saheb Bahadur, Maulvi Sayyid.

Parma Nand, Bhai.
Patil, Rao Bahadur B. L.
Phookun, Mr. T. R.
Puri, Mr. Goswami M. R.
Rastogi, Mr. Badri Lal.
Reddi, Mr. P. G.
Reddi, Mr. T. N. Ramakrishna.
Sadiq Hasan, Shaikh.
Sant Singh, Sardar.
Sarda, Diwan Bahadur Harbilas.
Sen, Mr. S. C.
Sen, Pandit Satyendra Nath.
Singh, Kumar Gupteshwar Prasad.
Sitaramaraju, Mr. B.
Sohan Singh, Sirdar.
Thampan, Mr. K. P.
Uppi Saheb Bahadur, Mr.
Yakub, Sir Muhammad.
Ziauddin Ahmad, Dr.

NOES—47.

Abdul Hye, Khan Bahadur Abul
Hasnat Muhammad.
Acott, Mr. A. S. V.
Allah Baksh Khan Tiwana, Khan
Bahadur Malik.
Amir Hussain, Khan Bahadur Saiyid.
Anklesaria, Mr. N. N.
Bajpai, Mr. G. S.
Bhore, The Honourable Sir Joseph.
Bower, Mr. E. H. M.
Burt, Mr. B. C.
Dalal, Dr. R. D.
Dunn, Mr. C. W.
Dutt, Mr. G. S.
Fox, Mr. H. B.
Graham, Sir Lancelot.
Greenfield, Mr. H. C.
Gwynne, Mr. C. W.
Haig, The Honourable Mr. H. G.
Hazlett, Mr. J.
Hudson, Sir Leslie.
Ishwarsingji, Nawab Naharsingji.
Ismail Ali Khan, Kunwar Hajee.
James, Mr. F. E.
Jawahar Singh, Sardar Bahadur
Sardar.
Lal Chand, Hony. Captain Rao
Bahadur Chaudhri.

Macqueen, Mr. P.
Meek, Dr. D. B.
Metcalfe, Mr. H. A. F.
Misra, Mr. B. N.
Mitter, The Honourable Sir
Brojendra.
Moore, Mr. Arthur.
Morgan, Mr. G.
Mukherjee, Rai Bahadur S. C.
Nayudu, Rao Bahadur B. V. Sri Hari
Rao.
Nihal Singh, Sardar.
Rafuddin Ahmad, Khan Bahadur
Maulvi.
Rajah, Rao Bahadur M. C.
Rau, Mr. P. R.
Ryan, Mr. T.
Schuster, The Honourable Sir George.
Scott, Mr. J. Ramsay.
Sher Muhammad Khan Gakhar,
Captain.
Singh, Mr. Pradyumna Prasad.
Smith, Mr. R.
Sorley, Mr. H. T.
Tottenham, Mr. G. R. F.
Yamin Khan, Mr. Muhammad.
Zulfiqar Ali Khan, Sir.

The motion was negatived.

Mr. B. V. Jadhav: Sir, I move:

"That in clause 13 of the Bill, in sub-section (2) of the proposed section 17B, for the words 'forfeited to His Majesty' the words 'kept in the custody of Government' be substituted."

In this clause 13, certain sections are sought to be added to the Indian Criminal Law Amendment Act, 1908. The first, section 17A, gives power to notify and take possession of a building or a house if it is used by an unlawful association, and the second, 17B, to which this amendment is being moved by me, relates to moveable property found in that notified place. So the whole place is really to be taken over by Government with the moveable property that will be found there. In the case of the immoveable property, Government have made provision that after the association ceases to be unlawful, the immoveable property will be restored to that association. An unlawful association under this Act is not from its inception an unlawful association. It is an association which is carrying on its work lawfully and it is recognised as lawful for a number of years. But for reasons known to Government they come to a decision and declare it to be an unlawful association and take possession of the buildings or offices or whatever there may be. Government are so very hard-hearted that they will not allow any time or concession even to an invalid person to be comfortably removed. Be that as it may, it is certain that they are not forfeiting immoveable property. But when they take possession of the moveable property, let us see how they propose to dispose of it. The method is detailed in this proposed section 17B.

"The District Magistrate, Commissioner of Police or officer taking possession of a notified place shall also take possession of all moveable property found therein, and shall make a list thereof . . ."

I have nothing to say against this.

"If, in the opinion of the District Magistrate, or in a Presidency-town the Commissioner of Police, any articles specified in the list are or may be used for the purposes of the unlawful association, he may proceed, subject to the provisions hereafter contained in this section, to order such articles to be forfeited to His Majesty."

My objection here is to the provision about forfeiture. If the immoveable property is not to be forfeited, but is to be handed over and restored to the association when it ceases to be unlawful, then in the same way the articles and moveable property found therein ought to be restored to the association when it becomes a lawful body in the eyes of Government. Here the provision is that some of the property should be forfeited to His Majesty. I congratulate Government on their not being anxious to forfeit all the moveable property to Government. They are forfeiting to Government some of the property and leaving other property without being forfeited, and they are prepared to restore it to the association when it becomes lawful in their eyes. But further on, there is a provision that any moneys that will be found there or in the account of the unlawful association at a bank or with a merchant will be forfeited to Government and there is no provision of restoration to the association when it becomes lawful in the eyes of Government. So, my contention is that the clause is not a just clause. Government ought not to forfeit the funds of an association which they declare unlawful. Government may keep possession of those funds and prevent the unlawful association from making use of them in the prosecution of their unlawful objects. But, beyond that, Government ought not to go and ought not to forfeit. Government ought to restore it along with the immoveable property which they take possession of. If Government are going to forfeit the funds of the association, then the association, when it becomes lawful, will be deprived of the funds and will not be able to carry on its lawful activities, as funds

[Mr. B. V. Jadhav.]

do not come in a day. This grabbing system of Government ought to be condemned. In forfeiting the funds of the association, Government are the prosecutor, Government are the judge and Government, at the same time, are the executioner. There is no chance to anybody; the unlawful association to which the funds belong cannot come forward and claim them when the order of forfeiture is passed. They are out of Court; their leaders are rotting in jail and there is nobody to represent their claims or do anything for them. If, on the ground of that association being an unlawful one, Government come forward to forfeit their funds and add them to the treasury, they expose themselves to the charge of looting their subjects and looting the people. In the amendment I suggest that the principle of forfeiture should be abandoned and the moveable property should be kept in the custody of Government. I, of course, agree that the funds ought not to be allowed to be used by any person for any unlawful purpose. I, therefore, move that for the words "forfeited to His Majesty" the words "kept in the custody of Government" should be substituted.

Sardar Sant Singh (West Punjab: Sikh): Sir, I support this amendment. In supporting it, I wish to remind the Government of the sections of the Penal Code which originally contained sentence of forfeiture of property. These sections were 121, 121A, 123 and probably 124. In those sections, as they were originally framed, the offences mentioned therein were punishable with forfeiture of property as well. During the martial law in 1919 in the Punjab, some high placed persons like Lala Harkishen Lal and others were charged with waging war before Tribunals specially set up under the martial law and were convicted of such offences and sentenced to transportation for life and the forfeiture of their property. Soon after the Government realised their blunder and the Hunter Committee was appointed to investigate into the conditions arising out of martial law. The Hunter Committee's finding resulted in securing the release of all such persons. Then the Government found themselves in an embarrassed situation. The sentence of forfeiture was passed by a Tribunal and still stood there. Ultimately the orders of forfeiture were withdrawn, but this led to an amendment of these sections, and, by section 2 of the Indian Penal Code (Amendment) Act, 1921, the sentence of forfeiture was removed. Taking into consideration that only last year the Government had to go to the Congress to enter into a pact with that body, it is not unlikely that the same thing may have to be repeated in the year 1933. Suppose it so happens, forfeitures of property would create unnecessary complications. Just as in the case of Bardoli a difficulty arose and could not completely be surmounted in order to restore the properties to the original owners, the same embarrassment may fall on the Government again. It is not unlikely the press reports of opening negotiations with Mahatma Gandhi to secure his co-operation in the coming reforms are persistent. If so, the present enactment may cause unforeseen difficulties in the way of securing the compromise. It will be an act of statesmanship to foresee the difficulties and to avoid taking any extreme step which may go to create further difficulties in the restoration of good relations between the Congress and the administration. Therefore, I think it would be quite well if, instead of ordering the forfeiture of the property, the property be kept in the custody of the Government so that if the compromise does include such a term as restoration of

property, it may be very easy for the executive to restore it. Therefore, I will support this amendment.

The Honourable Mr. H. G. Haig: Sir, my Honourable friend, Mr.

4 p.m. Jadhav, suggested that because we have been, as he would consider, reasonable, in not forfeiting immoveable property, we should, therefore, take precisely the same action with regard to moveable; but, of course, the argument might work the other way: we might, if he wants us to be entirely consistent, forfeit immoveable property as well as moveable. But, on the whole, the view of the Government is that it is reasonable to distinguish between moveable and immoveable property. It is a much more severe and serious matter to forfeit permanently immoveable property than moveable. In the case of these associations, it must be remembered that they exist for an unlawful purpose. My Honourable friend, Sardar Sant Singh, suggested that because we did not in the case of certain criminal offences order the forfeiture of the property of the offender, therefore it is unreasonable that the property of these unlawful associations should be liable to forfeiture. I think it is very easy to draw a distinction between the two cases. In the case of an individual he does not normally devote the whole of his resources to the commission of a particular offence; but these unlawful associations exist for no other purpose than to carry out these unlawful activities and, I submit, that the property which is definitely used for these purposes should be liable to forfeiture, and that the provision is a reasonable one. I do not propose to follow my Honourable friend, Sardar Sant Singh, into his suggestions that it might be embarrassing for Government if they enter into another pact with the Congress and certain arrangements had to be made about the return of this forfeited property, because it has been repeatedly asserted on the floor of this House as well as in the House of Commons that the Government have not the slightest intention of entering into another pact with the Congress. Sir, I oppose.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in clause 13 of the Bill, in sub-section (2) of the proposed section 17B, for the words 'forfeited to His Majesty' the words 'kept in the custody of Government' be substituted."

The Assembly divided:

AYES—35.

Abdur Rahim, Sir.
Aggarwal, Mr. Jagan Nath.
Azhar Ali, Mr. Muhammad.
Bhuput Singh, Mr.
Chetty, Mr. R. K. Shanmukham.
Dutt, Mr. Amar Nath.
Gour, Sir Hari Singh.
Gunjal, Mr. N. R.
Harbans Singh Brar, Sirdar.
Isra, Chaudhri.
Jadhav, Mr. B. V.
Jog, Mr. S. G.
Lalchand Navalrai, Mr.
Misra, Mr. B. N.
Mitra, Mr. S. C.
Murtuza Sahab Bahadur, Maulvi Sanyid.
Pandian, Mr. B. Rajaram.

Parma Nand, Bhai.
Patil, Rao Bahadur B. L.
Phookun, Mr. T. R.
Puri, Mr. Goswami M. R.
Ranga Iyer, Mr. C. S.
Reddi, Mr. P. G.
Reddi, Mr. T. N. Ramakrishna.
Sadiq Hasan, Shaikh.
Sant Singh, Sardar.
Sarda, Diwan Bahadur Harbilas.
Sen, Mr. S. C.
Sen, Pandit Satyendra Nath.
Singh, Kumar Gupteshwar Prasad.
Sitaramaraju, Mr. B.
Sohan Singh, Sirdar.
Thampan, Mr. K. P.
Uppi Sahab Bahadur, Mr.
Ziauddin Ahmad, Dr.

NOES—51.

Abdul Hye, Khan Bahadur Abul
Hasnat Muhammad.
Acott, Mr. A. S. V.
Allah Baksh Khan Tiwana, Khan
Bahadur Malik.
Amir Hussain, Khan Bahadur Saiyid.
Anklesaria, Mr. N. N.
Anwar-ul-Azim, Mr. Muhammad.
Bajpai, Mr. G. S.
Bhore, The Honourable Sir Joseph.
Bower, Mr. E. H. M.
Bort, Mr. B. C.
Dalel, Dr. R. D.
DeSouza, Dr. F. X.
Dunn, Mr. C. W.
Dutt, Mr. G. S.
Fox, Mr. H. B.
Graham, Sir Lancelot.
Greenfield, Mr. H. C.
Gwynne, Mr. C. W.
Haig, The Honourable Mr. H. G.
Herlett, Mr. J.
Hudson, Sir Leslie.
Ishwarsingji, Nawab Naharsingji.
Ismail Ali Khan, Kunwar Hajee.
James, Mr. F. E.
Jawahar Singh, Sardar Bahadur
Sardar.
Lal Chand, Hony. Captain Rao
Bahadur Chaudhri.

Macqueen, Mr. P.
Meek, Dr. D. B.
Metcalf, Mr. H. A. F.
Mitter, The Honourable Sir
Brojendra.
Moore, Mr. Arthur.
Morgan, Mr. G.
Mukherjee, Rai Bahadur S. C.
Nayudu, Rao Bahadur B. V. Sri Hari
Rao.
Nihal Singh, Sardar.
Rafuddin Ahmad, Khan Bahadur
Maulvi.
Rajah, Rao Bahadur M. C.
Rastogi, Mr. Badri Lal.
Rau, Mr. P. R.
Ryan, Mr. T.
Sarma, Mr. R. S.
Schuster, The Honourable Sir George.
Scott, Mr. J. Ramsay.
Sher Muhammad Khan Gakhar,
Captain.
Singh, Mr. Pradyumna Prashad.
Smith, Mr. R.
Sorley, Mr. H. T.
Tottenham, Mr. G. R. F.
Yakub, Sir Muhammad.
Yamin Khan, Mr. Muhammad.
Zulfiqar Ali Khan, Sir.

The motion was negatived.

Mr. B. V. Jadhav: Sir, I move:

"That in clause 13 of the Bill, in sub-section (4) of the proposed section 17B, for the word 'forfeit' the words 'kept in custody of Government' be substituted."

Mr. Amar Nath Dutt: Sir, if an instance were needed of the law of evolution in law, I think here is one, and let us hand it over to future generations to come as a precious piece of legacy for enlightenment as to how the law progresses in lands which are under foreign rule. Here you not only punish parents and guardians for the sins of their children or wards, but you also take away their property and have forfeit it. I knew that law was intended for the protection of the liberty as well as the person and property of human beings. Here, we find that this law is intended for the destruction of the liberty as well as security of person and property of the people. We are placed absolutely at the mercy of those very estimable gentlemen who appear in one garb in decent society and, in another garb, elsewhere when they happen to be heads of districts. We have heard very eminent members of that service speaking with a sense of responsibility and they assume to call themselves public servants, and we have been asked to legalise all sorts of illegal acts for their protection. Now, we have to give our property to them and our properties are at their mercy. The authority that has been given to these high class officers, called District Magistrates or Commissioners of Police, cannot certainly be found in any other part of the world except in this unfortunate country. I can well understand the introduction of martial law, but I do not understand such oppression and tyranny in the name of law, and to ask the representatives of the people here to approve of laws like these, and this is

something which they ought not to do. Sir, they have been doing all these things. They have been destroying property, they have been taking property, they are doing things which I cannot describe without a sense of horror, and, if necessary, they will be described later on. When they are doing all these things, there is no necessity for enacting sub-section (4) of the proposed section 17B. That being so, I ask, in the name of decency, not to press for the word "forfeit". What my Honourable friend, Mr. Jadhav, wants, is that it should be merely detained in your possession, though I do not know how far that detention by the Government officers will be of any real benefit. I submit that we should not be asked to be a party to such a barbarous legislation as this. I support Mr. Jadhav.

The Honourable Mr. H. G. Haig: The point raised by this amendment is precisely the same as that which was discussed and decided on the previous amendment. I, therefore, do not propose to repeat the arguments that I advanced on the previous amendment. With reference to what my Honourable friend, Mr. Amar Nath Dutt, has said, I should just like to remind him that the property which is liable to forfeiture is not, as he suggests, the property of any individual, but it is property which is used for the purposes of an unlawful association.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question which I have to put is:

"That in clause 13 of the Bill, in sub-section (4) of the proposed section 17B, for the word 'forfeit' the words 'kept in custody of Government' be substituted."

The motion was negatived.

Mr. S. O. Sen: Sir, I move:

"That in clause 13 of the Bill, in sub-section (7) of the proposed section 17B, the words 'and the decision of the District Judge or Chief Judge of the Small Cause Court, as the case may be, shall be final' be omitted."

My reason for saying so is this. When the Bill came before the Select Committee, there was only the clause on forfeiture by executive authority without any judicial appeal. After considerable discussion, the Government consented to refer the matter to the District Judge or the Chief Judge of the Small Cause Court for adjudication. But, at the same time, they insisted that the decision of the District Judge or the Chief Judge of the Small Cause Court should be final. Why, I do not know. Probably they were following here the procedure laid down in the Civil Procedure Code for the investigation of claims, under which the decision of the Court is final. But they forgot that that section also provided that a suit might be filed by the person aggrieved for a declaration of his right. If that is given here, there is no occasion to interfere with the sub-section. But that provision has not been made here. I do not see why the decision of the District Judge should be final. Government seem to be very much afraid of Civil Courts and, therefore, they do not want any appeal to be made to the High Court or any other Court. In these circumstances, I submit my amendment for the acceptance of the House.

Mr. Jagan Nath Aggarwal (Jullundur Division: Non-Muhammadian): This clause 17B has been amended in several particulars, but I am afraid that the amendments have only taken the matter half way through. The

[Mr. Jagan Nath Aggarwal.]

House will be pleased to notice that against an executive order of forfeiture a certain judicial remedy has been provided. If moveable property is found in a certain place which is notified and which is likely to be used for the purposes of an unlawful association, then a temporary order of forfeiture is made. This is subject to a reference to judicial authorities—the District Judge in the mufassil and the Chief Judge of the Small Cause Court in the Presidency-towns. So far, well and good. From the executive order the matter is taken to a judicial tribunal. But what do we find thereafter? We find in sub-section (?), the procedure which is adopted is very laconically described as the procedure for the investigation of claims so far as that can be made to apply. The Honourable the Law Member and those responsible for the provisions know very well that when a matter goes to the judicial authorities as a claim petition, the position is that when a claim has been preferred, it is summarily enquired into, but whatever the result is, it is subject to the result of an ordinary suit. I would like to know whether the same procedure as the Civil Procedure Code authorises shall be adopted for the purpose, because the words used in the claim procedure section of the Civil Procedure Code are that the decision shall be final, subject to the result of an ordinary suit as provided by that very section. Sir, we do not find any such word. Now that we are giving a right of recourse to the Civil Court and we are adopting the procedure of the claim investigation section, we should have the whole of that machinery adopted, the point being that no man shall suffer in property without having recourse to the highest tribunal with a right of appeal and second appeal if a law question is involved. On an ordinary petty case of Rs. 5,000 or so, the decision of the District Judge or the Chief Judge of the Small Cause Court is liable to question before an appellate Court, but in a matter where a lakh of rupees may be found in a place—it may be the amount belonging to the association may run to several lakhs—why is it that the claim procedure is allowed so far as one stage of investigation is concerned, but the District Judge or the Chief Judge of the Small Cause Court is clothed with absolute authority and his verdict is not liable to be challenged before any superior Court? This is a matter in which, I submit, the amendment is very logical. I do not know whether logic has much scope for acceptance in the discussion of this measure, but the two-fold remedy which is generally availed of in a matter of this kind, either the remedy of a regular suit, or the remedy of an appeal, should be adopted so far as this provision is concerned. It may be declared that the decision of the District Judge shall be tantamount to a decree, or it may be declared, subject to the result of a regular suit. I commend this amendment for the acceptance of the House.

Mr. S. G. Jog: The remedy provided by this clause, in cases of forfeiture of property, is a drastic one. When making a provision for such a drastic change it is absolutely necessary that facilities should be given to the aggrieved party. I must admit that when the original Bill was introduced, there was absolutely no provision even of this sort and they wanted the decision of the executive authority to be final. As the matter was pressed to a great extent in the Select Committee, it is no doubt true that the remedy of making an investigation before a District Judge was given, but, at the same time, we find that the decision of the District Judge shall be final. I think this has no meaning. Whether the District Judge decides the case or the Small Cause Court Judge decides the case, the

High Court has got the power of supervision and revision. I submit that the words "shall be final" should be omitted and the regular Courts of appeal should be open to the aggrieved parties. That will inspire more confidence. There will be many cases of forfeiture and people will be afraid if these cases are not well thrashed out in the civil Courts and the feeling of diffidence will remain. For these reasons, I submit, that the amendment should be allowed.

The Honourable Sir Brojendra Mitter: I oppose the amendment. It will be within the recollection of Honourable Members that in the Bill final adjudication was left in the hands of the executive. They had the last word to say whether a particular moveable property was used for the purpose of an unlawful association or not. It was pressed upon us that since it affected rights of property, there should be some sort of judicial adjudication and it was for that purpose that the change was made in the Select Committee. Then the question arose that if a judicial authority was, upon a claim made, to adjudicate upon this issue whether a property was used for the purpose of an unlawful association or not, what should be the procedure. We cast about to find a procedure. We found that in the Civil Procedure Code there was a procedure for claims in matters between individuals with regard to property. We adopted that procedure. It should, however, be realised that this is not a civil proceeding at all. This is not a dispute for property between two individuals, and all the rights which are given to civil disputants cannot be claimed in a matter like this which is criminal in its nature. I am fully aware that under the Civil Procedure Code a suit may be instituted by the unsuccessful party to a claim proceeding. Title to property is in question there and hence the Legislature has given full rights of appeal to the parties interested; but in this case there is no question of title at all. Why should there be an appeal? By using the words "the decision shall be final", the intention and the effect are that appeals are barred. These words are not new. They occur in many Statutes and the meaning is quite clear. Mr. Jog says, these words have no meaning, because the High Courts can revise. If the High Court has the power of revision, it will revise, but there shall be no appeal. That there should not be an appeal would be manifest from the nature of the case. If Honourable Members will look at 17B, (8), they will find that the articles which are liable to be forfeited are those which may be used for the purpose of an unlawful association. It is a very simple issue and, in spite of the District Magistrate deciding this issue, we have conceded to this extent that a judicial officer, namely, a District Judge or the Chief Judge of a Small Cause Court should finally adjudicate upon it. When an issue is so simple, why should there be an appeal—for whose benefit, for the benefit of the legal profession? I oppose the amendment.

Mr. Bahadur B. L. Patil: I have very little to say in supporting the amendment. The Honourable the Law Member said that these proceedings were in the nature of criminal cases. I beg to differ from him. The question is whether a particular property belongs to A or B. That should be called a civil proceeding and the Court will have to decide whether the property really belongs to the unlawful association or to another person. In such cases, it is but right and proper that an individual putting forth his claim ought to be given an opportunity to take these matters to the highest appellate Courts. For these reasons, I support the amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in clause 13 of the Bill, in sub-section (7) of the proposed section 17B, the words 'and the decision of the District Judge or Chief Judge of the Small Cause Court, as the case may be, shall be final' be omitted."

The motion was negatived.

Mr. S. O. Sen: Sir, I move:

"That in clause 13 of the Bill, at the beginning of the proposed section 17C, the words and figures 'Subject to the proviso to sub-section (2) of section 17A' be added."

My reason for this is that some reasonable time shall be given for the parties concerned to vacate the place. That is all I have to say.

The Honourable Sir Brojendra Mitter: I really do not understand the meaning of this amendment. The proviso to sub-section (2) of 17A says:

"Provided that where such place contains any apartment occupied by women or children, reasonable time and facilities shall be afforded for their withdrawal with the least possible inconvenience."

Now, how does that apply to a person who is not in the premises at all but who is entering those premises? What reasonable facilities should be given to him for withdrawing? There is no question of withdrawing? So, to that portion of 17C the proviso would be inapplicable. In the case where a person remains in a notified place without the permission of the District Magistrate, the proviso may have application. But, Sir, here, again, what happens? In the first place, the District Magistrate comes and takes possession of the house, and he gives reasonable facilities to women and children to withdraw in good time. Then everyone is presumed to have vacated it. But if anyone conceals himself in the house and remains in the house, what reasonable facilities are expected to be given to him? I do not understand this amendment and I oppose it.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in clause 13 of the Bill, at the beginning of the proposed section 17C, the words and figures 'Subject to the proviso to sub-section (2) of section 17A' be added."

The motion was negatived.

Mr. B. V. Jadhav: Sir, I move:

"That in clause 13 of the Bill, in sub-section (1) of the proposed section 17E, for the words 'forfeited to His Majesty' the words 'kept under the control of Government' be substituted."

The proposed section 17E says:

"Where the Local Government is satisfied, after such inquiry as it may think fit, that any monies, securities or credits are being used or are intended to be used for the purposes of an unlawful association, the Local Government may, by order in writing, declare such monies, securities or credits to be forfeited to His Majesty."

I claim, Sir, that this provision ought to be modified and the provision for forfeiture should be taken away. An "unlawful association" was not an unlawful association before it was declared to be unlawful, and the

funds collected by that association were lawfully collected. Now this unlawful association is not likely to remain unlawful for ever; and when the declaration about unlawfulness is taken away, the immoveable property belonging to that association is going to be restored to that association. I, therefore, claim that the funds of the unlawful association should not be forfeited, but should be kept under the control of Government so that they should not be used for the furtherance of unlawful objects, but that they should be available for being returned to the association when it is declared once again to be lawful, and, therefore, I move my amendment.

The Honourable Mr. H. G. Haig: Sir, similar considerations arise to those which we have already discussed in connection with moveable property. In regard to funds, Sir, it has been said that these funds are the life-blood of the organised opposition to Government. The power of forfeiture of such funds has been found to act as a very powerful deterrent. It is believed to deter people from subscribing to these unlawful movements. Now, that deterrent effect would be very much minimised, and even perhaps destroyed, if the power of Government stopped short at merely holding these funds for some months or a year and if, at the end of that time, the funds were to be restored to the association. It is in our opinion, Sir, most essential that Government should have the power, subject to the safeguards that we have included in this clause, to forfeit the funds.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in clause 13 of the Bill, in sub-section (1) of the proposed section 17E, for the words 'forfeited to His Majesty' the words 'kept under the control of Government' be substituted."

The motion was negatived.

Mr. B. V. Jadhav: Sir, I move:

"That in clause 13 of the Bill, in sub-section (3) of the proposed section 17E, for the words 'of forfeiture', wherever they occur, the words 'for keeping under the control of Government' be substituted."

The Honourable Mr. H. G. Haig: Sir, a point precisely the same as the one which arose on the previous amendment arises here, and I oppose the amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in clause 13 of the Bill, in sub-section (3) of the proposed section 17E, for the words 'of forfeiture', wherever they occur, the words 'for keeping under the control of Government' be substituted."

The motion was negatived.

Mr. S. O. Sen: Sir, I rise to move the amendment that stands in my name, namely:

"That in clause 13 of the Bill, in sub-section (1) of the proposed section 17E, the words 'and the decision of the District Judge or Chief Judge of the Small Cause Court, as the case may be, shall be final' be omitted."

Sir, on the last occasion I spoke about a similar matter in connection with moveable property. This is in connection with monies, etc. The answer to the point which I raised of the Honourable the Law Member was that

[Mr. S. C. Sen.]

it was a case of forfeiture and, therefore, the provisions of the Civil Procedure Code regarding a title-suit would not apply. I do not know whether the Honourable the Law Member will advance the same argument in this case also. Sir, under sub-clause (3), what will be the issue before the District Judge or the Chief Judge of the Small Cause Court? "To establish that the monies, securities or credits are not liable to forfeiture". That means that in this case the question is whether the Magistrate or the Local Government have sufficient material before them to justify their action and it will, therefore, be necessary to consider whether the monies, etc., can be forfeited or not. This may involve the question whether the money belongs to me or to the unlawful association, and whether it was or could be used for such association. That is purely a question of title, as is known in the mufassil Courts. In the High Court there is no such distinction between these two matters. I would here also refer to sub-clause (5):

"Where the Local Government has reason to believe that any person has custody of any monies, securities or credits which are being used or are intended to be used for the purposes of an unlawful association, the Local Government may, by order in writing, prohibit such person from paying," etc.

and it then goes on to say that the man will be liable to pay. The man in whose possession the money is may say that it does not belong to the association but belongs to him, that it was never used or intended to be used for such association. Therefore, the Local Government, standing in the place of the association, has to prove the claim or I have to prove the claim as against the association that the money belongs to me and not to the association. Under these circumstances, it clearly comes within the purview of a title case and, in such a case, there is always an appeal from the lower Court. Sir, I move the amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Amendment moved:

"That in clause 13 of the Bill, in sub-section (4) of the proposed section 17E, the words 'and the decision of the District Judge or Chief Judge of the Small Cause Court, as the case may be, shall be final' be omitted."

Sirdar Harbans Singh Brar (East Punjab: Sikh): Sir, I rise to support the amendment. In this case it may naturally happen that the money in the custody, say, of the treasurer, which the Government will allege to belong to the unlawful association, may be his own property as an individual. In that case the question involved will be that he should prove his title to it. And when he has to prove his title, the claims procedure will not serve the purpose. The money may run into lakhs. In ordinary cases, when the amount will be over 5,000 rupees, a person can go to the High Court in second appeal but in the present case it may run into lakhs. I do not know why the Government are so much afraid of the civil Courts or the civil authority and why do they fear that the High Courts will not do justice to the cases if an ordinary procedure is resorted to by the person making the claim. In the claim procedure, no doubt the District Judge is the final authority, but it gives the right to the claimant to file a regular suit. I am personally not convinced what fear the Government entertain in allowing the individual concerned to establish his title to the property which the Government desire to forfeit by a measure of an extraordinary nature and by extraordinary means. I think the amendment is very reasonable and Government should accept it.

The Honourable Sir Brojendra Mitter: Sir, I dispute Mr. Sen's proposition that any question of title is involved in these proceedings. In 17E, sub-clause (3), what is to be established is that the monies, securities or credits or any of them are not liable to forfeiture. Now, that takes us back to sub-clause (1)—what are the monies, etc., which are liable to forfeiture? They are monies, securities or credits which are being used or are intended to be used for purposes of an unlawful association. These are the monies and securities and credits which are liable to forfeiture irrespective of the question of title. The money may belong to A, B, or C; that does not matter. There is no question of conflicting titles there; it is the user of the money which is the criterion and not its ownership. In sub-clause (5), it is not a case of forfeiture at all; it is a case of injunction. When can an injunction issue? When the monies, securities or credits are being used or are intended to be used for purposes of an unlawful association. There, again, I say that it is immaterial who the owner of these monies is. It is only the purpose for which the monies are used or intended to be used that counts. Therefore, there is no question of adjudication of title as in a claim proceeding under the Civil Procedure Code and there is no occasion for an appeal.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in clause 13 of the Bill, in sub-section (4) of the proposed section 17E, the words 'and the decision of the District Judge or Chief Judge of the Small Cause Court, as the case may be, shall be final' be omitted."

The motion was negatived.

Mr. S. C. Mitra: Sir, I move:

"That in clause 13 of the Bill, the proposed section 17F be omitted."

Sir, this section 17F is designed to bar all civil and criminal suits in the case of the forfeiture. I will read out the section:

"Every report of the taking possession of property and every declaration of forfeiture made, or purporting to be made under this Act shall, as against all persons, be conclusive proof that the property specified therein has been taken possession of by Government or has been forfeited, as the case may be, and save as provided in sections 17B and 17E, no proceeding purporting to be taken under section 17A, 17B, 17C, 17D or 17E, shall be called in question by any Court, and no civil or criminal proceeding shall be instituted against any person for anything in good faith done or intended to be done under the said sections or against Government or any person acting on behalf of or by authority of Government for any loss or damage caused to or in respect of any property whereof possession has been taken by Government under this Act."

Sir, it seems that Government are gradually becoming afraid even of their own law Courts. Now, after forfeiture, it cannot be said that the property or money is in possession of the offender. Government have already taken possession of it. Then no mischief could be committed with that property or money or securities. When the object of the Government has been achieved, why should people be debarred from going to the Courts of justice to establish their right or to prove if anything illegal has been done by the officers of Government in securing the forfeiture?

[Mr. S. C. Mitra.]

I think Government are no longer anxious here in India for the rule of law of which they are so proud in England. This piece of legislation makes the position of the ordinary law worse than even that of martial law. In the case of the martial law, the ordinary law is suspended for the time being and, before a Bill for immunity is brought in, the officers are very much afraid that their conduct may be criticised. But here it seems that the Bill of immunity is preceding the martial law. The result will be that Government officers will become simply reckless, because they know that a provision has already been made that no suit, either civil or criminal, can ever be brought against them. If Government think that the times are very bad, let them declare martial law, and suspend all civil law for the time being. But, in the name of law, to have such drastic provisions barring the jurisdiction of all Courts, civil and criminal, even after the forfeiture of property, is, I think, the very limit. Sir, the Leader of the House, whose great knowledge of legal affairs is well known, says today that provisions for appeals are for the benefit of lawyers only. If this is the deliberate opinion of a gentleman who is the Law Member of the Government of India, I think it is no use my arguing the point that even when no mischief can be committed, when the property is already in possession of Government, people should have some right, if they are aggrieved, to go to the British Courts of justice. Sir, it is well known that the judiciary here is to a great extent under executive influence; but even then Government are so afraid, it seems, that in every new piece of legislation in some way or other they are anxious not only to curb the powers of the High Courts, but even of the district and Presidency Courts. So, I move that this sub-clause barring criminal and civil proceedings should be deleted.

Raja Bahadur G. Krishnamachariar: Sir, I support this amendment. I do so with regard to those provisions of the clause which bar the jurisdiction of the civil Courts. There was one leading case upon this matter from Rangoon in which the Privy Council passed very scathing remarks about this removal of the jurisdiction of the civil Courts from acts done by persons who pretended to show that it was done in good faith, but which as a fact, was not so done, or at least could be proved to be such. But it is a colossal and superhuman task to do so in proceedings specially instituted for that purpose. Sir, there is a book,—I do not know if it had a chance to fall into the hands of Honourable Members of Government,—written by the present Lord Chief Justice of England, named “The New Despotism”. That book deals with two things: first, in allowing a Government department to frame subsidiary rules which shall form part of the principal Statute and the next and more important item of despotism which the Lord Chief Justice of England describes is the barring of the jurisdiction of the civil Courts. Unfortunately, I have not got the book with me here, but he says,—I believe I am correctly reporting him,—that the officers of the executive department are so sure of the position that they have taken in connection with the various administrative acts which have been entrusted to them that they bar all jurisdiction of the civil Courts; and knowing that the civil Courts cannot take cognizance of them, they have got a *carte blanche* and they go on acting just as they like. I do not say they are so wicked

as that; I do not say that they have got a double dose of the original sin that they want to do that sort of thing. But, Sir, power is so tempting, no matter in whose hands it is kept, that it leads always to the risk and temptation of being over-exercised. And once you begin to over-exercise it, it is so sweet that no one wants to abandon the position, much less does he want to make himself accountable for anything.

Sir, we know that there are certain acts recently passed under which the jurisdiction of the civil Courts has been taken away. The most important Act that now comes to my mind is the Income-tax Act. In the Income-tax Act, you will find provision after provision each one of which would suffice to create trouble and annoyance to the assessee, if by chance a Government official thinks the man is liable to pay income-tax. These men do it. They have absolutely no ground for taking the action that they do take and they are not called to account by anybody, and they are not bound to give any reasons. For instance, when a man submits his return of income, the Income-tax Officer immediately sends a notice wanting to test the correctness of his accounts. He cannot be asked on what grounds he wants to do it. And yet, even if I can show that the act was not done in good faith, the civil Court is deprived of its jurisdiction. The same thing will happen with reference to this piece of legislation; and, this being a political offence, and at a time when feelings run high, certain classes of public servants may still be under the impression that a subject nation has no right to politics. I do not know if my Honourable friends in this House remember that a very distinguished District Judge of the Madras Presidency made this pronouncement that a subject nation has no politics. Well, Sir, being in this political field and in the midst of all this trouble, it is quite possible that there will be a class of public servants who think that a subject nation has absolutely no business to dabble in politics. And once they get into that mentality, you do not know the excesses to which they will go. And what is the remedy after all? As my Honourable friend pointed out, even in martial law there is such a thing as an Indemnity Bill which is brought forward later when a man is expected to account for what he did. What is the remedy for all the excesses which may be,—I do not say will be,—committed under cover of this clause? Sir, I know there is one clause says, “intended to be done in good faith”. Sir, there is a saying,—I hope I am right in quoting it,—that the road to a certain place is paved with good intentions. You get an official doing these acts with a good intention. The result is ruinous to me, but I have absolutely no remedy. The only place which was open to me till now is also being banged against me, against the fundamental principle of British jurisprudence. What is it that I can do after this? It is a most dangerous thing to do. It may please Government to have recourse to this sort of remedy when, in a sort of half-panicky state of mind, they think they require these remedies when really they do not require them. But it is a dangerous principle to introduce in any piece of legislation and I ask that for the sake of peace in the country, Government should delete this provision which takes away the jurisdiction of the Courts and leave us to fight the matter out if we think that we have been penalised for no reason whatever.

The Honourable Sir Brojendra Mitter: Sir, the proposed section 17A has two parts. The first part deals with a rule of evidence. It says that every report of taking possession of property and every declaration of

[Sir Brojendra Mitter.]

forfeiture made shall be conclusive proof that the property specified therein has been taken possession of or has been forfeited as the case may be. It is a rule of evidence. This is necessary in order to obviate the necessity of calling a number of witnesses to prove the simple fact that on a particular day the District Magistrate went to a house and took possession of it and the properties therein or that some properties had been forfeited. In order to avoid that that this simple procedure has been adopted. That is so far as proof is concerned, and I have heard no criticism of this portion of the clause. The next portion is the indemnity portion, indemnity given to officers acting under this section in good faith. If an officer is not acting in good faith, there is no bar to anybody going to any Court. Any one who can prove before a judicial officer that a particular item of property was not being used or not intended to be used for the purpose of the unlawful association, will get back that property. An elaborate procedure has been laid down for establishing *bond fide* claims. After those claims are disposed of, what remains? What is forfeited is what is found to be used for the unlawful purpose or intended to be used for such purpose. In this proceeding, when the executive officers have to act under the scrutiny of a judicial officer, there cannot be any objection to give these executive officers an indemnity against harassing proceedings against them. It is only to save the executive officers from harassment that this indemnity has been given. Appeals are not desirable in these cases. I repeat that too many appeals are a curse in our judicial system. It does not conduce to justice. It gives a premium, an unfair advantage to the man with the long purse; he can always wear down his opponent by means of a multiplicity of appeals. I was attacked for saying this. I repeat, that in my judgment we have got too many appeals in this country which do not conduce to justice; they give an unfair advantage to the richer man. (Official Cheers and Nationalist Party Laughter.) The Raja Bahadur asks: "What is the remedy?". The remedy is the abandonment of the civil disobedience movement. (Official Cheers.) Sir, I oppose the amendment.

Mr. Jagan Nath Aggarwal (Jullundur Division: Non-Muhammadian): I am afraid, Sir, I cannot let go this opportunity to challenge two very strange statements made by the Honourable the Law Member. One is that there are too many appeals in this country. I would like to know what has the Law Department of the Government of India been doing that they have not brought forward a Bill to abolish the unnecessary right of appeal. It is only in this Ordinance Bill that they have thought of these unnecessary appeals when the liberties of the citizen suffer. When the ordinary litigants are out to fight and when they spend a good deal of money, the Law Member, who was till recently in the profession and making a bit of money, never made any protest. Now, after coming into a position in which he could remedy the state of the law and amend it, is there any occasion, barring this one of the Ordinance Bill, when he sought to put an end to this state of things for the sake of the long suffering people in this country, by abolishing the right of appeal? I was surprised that the Government Benches behind my Honourable friend raised cheers on the question that the right of appeal had been abused in this country. I should very much like to know what they have done in the matter. It is very easy to indulge in generalities, but if my learned friend had said that he would extend his principle and take away the right

of appeal in general, and not merely as proposed in this Bill, we would bow to him. He is a distinguished member of the legal profession and he is supposed to know the law. But to indulge in vague generalities at the expense of the legal profession or the weakness of the law is certainly neither sport nor anything else. I would, in this connection, beg leave to point out that the right of appeal is not merely for the benefit of the legal profession: that was a statement which I expected that the Honourable the Law Member would withdraw, but he has not taken the slightest notice of it; I take strong objection to the allegation that the right of appeal is only for the benefit of the legal profession. It is not for the legal profession; the right of appeal is for the litigant. The right of appeal is for the aggrieved party; the right of appeal is the right which gives a sense of security to the subject and adds to the respect for law (Opposition Cheers) and which provides a check on the vagaries of a judge. There are too many in this land who make mistakes and judges are no exception to it; and, if my learned friend thinks it is only for the legal profession, I can tell him, it is not so. Is it for my learned friend to turn round and say that the right of appeal is for the lawyer only?

The Honourable Sir Brojendra Mitter: I did not say that. I said it is for the man with the long purse.

Mr. Jagan Nath Aggarwal: That was said now: if the debate on a previous amendment, if the Honourable Member will pardon me for saying so, he said that the right of appeal was for the benefit of the legal profession.

The Honourable Sir Brojendra Mitter: No, Sir. What I did say was this: this right of appeal—for whose benefit? For the benefit of the legal profession? That was the query I made.

Mr. Jagan Nath Aggarwal: I am glad if the Honourable gentleman did not mean that. The reason why we objected to this clause was obviously this. The Honourable the Law Member himself pointed out two things in the clause: the first was a rule of evidence, as he said. But the words are: "It shall be conclusive evidence". That is where the grievance is. Conclusive evidence under the Evidence Act means that that thing shall not be allowed to be contradicted. It means that the thing is non-rebuttable and the man is not allowed to rebut the presumption. In all fairness, the man has a right to say: "You call it forfeiture; no forfeiture took place, and it should be a rebuttable presumption". If you had merely said that the Court shall presume forfeiture took place, the object would be served; but to make it a conclusive presumption is wholly wrong. With regard to the next part, it has been pointed out over and over again that you have given indemnity in advance. Give it in guarded words; give it for anything which is proved to be done *bond fide*, but do not give it, as you have given it, to every act done under colour of the Bill.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in clause 13 of the Bill, the proposed section 17-F be omitted."

The motion was negatived.

Mr. S. C. Sen: Sir, I move the amendment standing in my name . . .

Some Honourable Members: Do not move it.

Mr. S. C. Sen: . . . namely :

"That in clause 13 of the Bill, in the proposed section 17-F, all the words beginning with the words 'Every Report of' and ending with the words 'as the case may be, and' be omitted."

"We have heard the Law Member saying that these are very simple matters; this is a matter of evidence only. Is that so? That is very simple. The matter is very simple; and for his edification I may refer to a case which has already been cited twice by him and I may refer to the same judgment which he quoted here where this particular provision was considered, and that is the *Comrade* case, Muhammad Ali's case. I need not read the whole thing; but, as you are aware, in the Press Act, 1910, similar words occur. The words are that a declaration of forfeiture shall be conclusive evidence of that fact. That Act provided for certain safeguards, one of the safeguards being that before you call upon a particular newspaper editor to show cause why his money should not be forfeited, a notice giving details of the offence should be given. That was considered to be a safeguard by the then Law Member, the Honourable Mr. Sinha (afterwards Lord Sinha) when he introduced the Press Act in 1910. That was considered to be a safeguard by the judges in this case, but, in the case, that safeguard was not acted upon, and this is what the Judge says:

"The notification, therefore, appears to me to be defective in a material particular, and, but for section 22 of the Act, it would, in my opinion, be our duty, to hold that there had been no legal forfeiture."

Therefore, the question is not merely a question of evidence, as has been held by Sir Lawrence Jenkins in this case, but it goes against the whole case. He said that if there had not been this section 22 which contained the provision about the forfeiture being conclusive evidence, he would have dismissed the case, but he could not. Why? Because, he says:

"That section, however, provides that every declaration purporting to be made under the Act shall, as against all persons, be conclusive evidence that the forfeiture therein referred to has taken place."

The wording is exactly the same here. The learned Judge goes on to say:

"Though I hold that the notification does not comply with the provisions of the Act, still, we are, in my opinion, barred from questioning the legality of the forfeiture it purports to declare."

That is the effect of this clause, and not merely it bars evidence. It gives the power to legalise and not to question the vagaries of the lower officials. If the District Magistrate does not proceed in the manner provided in the section, if he does not follow the procedure as described in the section, if the Local Government do not follow the procedure laid down in the section, still, as soon as they make an order for forfeiture, I am debarred from questioning any of their acts where the provisions of the Act, have not been complied with and, therefore, my point is that this portion should be deleted. Why should the Government be in a better position than ordinary litigants?

The Honourable Sir Brojendra Mitter: We are not dealing with ordinary litigants in proposing this measure. We are dealing with an unlawful association, and we are dealing with property which is used or which may be used for purposes of that unlawful association. As regards the conclusive nature of the proof, it is undoubtedly true that when the report or declaration of forfeiture purporting to be made under this Act is made, it shall be conclusive proof, that property which is specified therein has been taken possession of by Government or has been forfeited, as the case may be. A great danger is apprehended by Mr. Sen, and what is that danger? A District Magistrate takes possession of a house where an unlawful association was carrying on its nefarious work, he takes possession of the moveable property there and makes a report to Government. Suppose the report is defective. What great harm is caused thereby to arouse the ire of Mr. Sen. Supposing the date on the order of forfeiture which the Government make is wrong or there is some error here or there. What great harm is caused? Sir, we have interposed a judicial proceeding. I could understand that if an ordinary citizen's rights were affected, then even a slight departure from the procedure laid down should be provided for. But, in this case, we are dealing with a particularly obnoxious movement for which this drastic measure has been proposed. It is not the ordinary law of the land; it is not going to be a permanent law of the land; it is a special Act, for a particular purpose and for a short period, and, therefore, whatever the consequences of this conclusive proof may be, the danger is not real. Sir, I oppose the amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in clause 13 of the Bill, in the proposed section 17-F, all the words beginning with the words 'Every Report of' and ending with the words 'as the case may be, and' be omitted."

The motion was negatived.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That clause 13 do stand part of the Bill."

The motion was adopted.

Clause 18 was added to the Bill.

The Assembly then adjourned till Eleven of the Clock on Friday, the 2nd December, 1982.

LEGISLATIVE ASSEMBLY.

Friday, 2nd December, 1932.

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

STATEMENT OF BUSINESS.

The Honourable Sir Brojendra Mitter (Leader of the House): With your permission, Sir, I desire to make a statement as to the probable future course of Government business. It is our intention, Sir, to resume on Monday, the 5th December, discussion of the Ottawa Resolution and that intention is, I believe, in accordance with the wishes of the House generally. That being so, Sir, it is in our opinion of the utmost importance that the proceedings on the Criminal Law Bill on which the House is at present engaged should be concluded this week. For that purpose, Sir, if those proceedings are not concluded today, we shall request you, when you adjourn the House this evening, to direct that it shall meet again at 11 o'clock tomorrow morning.

Our programme for the Ottawa business is to conclude the discussion of the Resolution and thereafter, if the Resolution is passed, forthwith to introduce the Bill, which has already been published in the Gazette and circulated to Members, and to move that it be referred to Select Committee. It is hoped that this motion will be passed in sufficient time to allow of a direction being inserted in it to the effect that the report should be presented on Monday, the 12th December. We trust, Sir, that you will make a direction that, in addition to sitting on Monday, Tuesday, Wednesday and Thursday of next week, the House shall also sit on Friday, the 9th, and Saturday, the 10th, if the discussion on the reference to Select Committee of the Ottawa Bill is not completed on Thursday. Should the reference to Select Committee of the Ottawa Bill be concluded earlier than is expected, Government will proceed with the other legislative business which has already been announced. This consists of:

- (1) The motion to take into consideration the Bill to supplement the Bengal Terrorist Outrages Act.
- (2) The motion to take into consideration the Bill to amend the Merchant Shipping Act in connection with the Haj Pilgrimage, as reported by the Select Committee.
- (3) The motion to take into consideration the Bill to prevent the pledging of Child Labour, as reported by the Select Committee.
- (4) The motion to take into consideration the Murshidabad Bill; and
- (5) The introduction of two Bills, namely, a Bill to amend the Merchant Shipping Act for certain purposes and a Bill to amend the Auxiliary Forces Act for certain purposes. It is not proposed to proceed further with these two Bills in this Session.

THE CRIMINAL LAW AMENDMENT BILL—contd.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Chair takes it that it is the general wish of the House that the consideration of the Ordinance Bill should be concluded during this week. There are two alternatives by which that can be done. One is to sit a little late this evening and finish the Ordinance Bill, so that we may not have to sit tomorrow and the House may adjourn to Monday. The other alternative is to adjourn it today at about the usual time and sit tomorrow. These two alternatives I want Honourable Members to consider and let the Chair know what their wishes are after Lunch interval today.

Order, order. The question is:

"That clause 14 do stand part of the Bill."

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): Sir, I move for the deletion of clause 14.

Clauses 15 and 16 also deal with the same matter, that is, the suppression of the Press. Because I have tabled a motion for the deletion of clause 16, so incidentally I also move for the deletion of clause 14. Under this clause, in the long title and preamble of the Indian Press (Emergency Powers) Act, 1931, for the words "against the publication of matter inciting to or encouraging murder or violence," the words "for the better control of the Press" is to be substituted. If the intention of the Government as regards the Press laws is to be adequately expressed, then, instead of calling it for the better control of the Press I think it should be called, for the suppression of the Indian Press. This will be the proper phraseology. The whole Bill is intended, as I understand the Government standpoint, as an emergency measure for putting down civil disobedience. If the Government desire to stick to their desire, then if they put in the preamble some such words as restricting the operation of clause 16 only to matters connected with the civil disobedience movement, that will certainly be an improvement, but the phrase "for the better control of the Press" is simply a misnomer. Sir, I move my amendment.

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions: Muhammadan Rural): One must admit that the Press, and especially the Indian Vernacular Press in India, has done a great deal to create public opinion and interest in political affairs among the masses in this country. During the last 15 or 16 years, specially since the Great War, the Vernacular Press has played an important part in forming public opinion in India. But one will also have to admit that a very great part of our troubles and the mischief that have been committed in this country is due to the vagaries of the Press and particularly the Vernacular Press. Sir, I do not wish to condemn the Press wholesale in this country for what they have done. There are newspapers in this country which advocate very sound and wholesome opinions, and which are doing very good work in civilising the country, but I am sorry to say that a very large number of Vernacular papers is responsible for the conditions which we see prevailing in this unfortunate land today. Communal bias, Hindu-Moslem riots, hatred between communities and communities—which unfortunately cannot be denied—they are all due mostly to the Vernacular Press. An incident that happens in a small village comes in the Press in a very

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exaggerated form and it spreads from one corner of the country to another like wild fire. You will find that in villages and small towns as well as in big cities Vernacular papers are purchased by shopkeepers and 20 or 30 people assemble at the shop. One man reads out the paper and everybody else is hearing, and anything that appears in the Press, according to the man in the street, is considered as a gospel truth. However strong the arguments that one may have to contradict the rumours published in those papers, the masses will not believe them. So, Sir, I say that a great deal of harm is being done on account of the Press not being kept in proper control. I will not make a very long speech on this point, but will recite only one passage from a paper which has come to my notice. This is the limit of the vagaries of the Press and the way in which they publish defamatory matter and the way in which they create hatred among the different sections of the public in this country.

Dr. Ziauddin Ahmad (United Provinces Southern Divisions: Muhammadan Rural): What is the paper.

Sir Muhammad Yakub: I will not name the paper nor will I give the date of it. Honourable gentlemen who read newspapers can find that out very easily. The heading is "Unhappy Sir Fazl-i-Hussain. Prospect of Assembly Leadership". Then it says:

"Sir Fazl-i-Hussain, the father of communalism in its present form, is reported to be unhappy at the fact that a Hindu Member of the Executive Council should have been appointed to be the Leader of the House in the Assembly a second time, and at the prospect of an Indian Christian following him in that important office. Sir Fazl's efforts to canvass Muslim votes for the Government on the question of Ottawa and the Ordinance Bill, as already reported by me, are, therefore, said to be not without their object, that object being to suggest to His Excellency the Viceroy that his (Sir Fazl's) influence is likely to prove much more useful to the Government than that of Sir Joseph Bhore, though the fact that Sir Joseph has been successful in causing a split in Opposition ranks over the Ottawa Pact (and here I would like to congratulate my Honourable friend, Sir Joseph Bhore, on his success) is stated to have upset Sir Fazl's hopes not a little. In fact, the feeling among some of the Hindu Members of the Opposition is so strong on the subject that they would rather earn discredit with their constituents by voting for the ratification of the Ottawa Pact than have Sir Fazl in the Lower House in preference to Sir Joseph."

Sir, this shows in what reckless manner hatred is being created by these newspapers in the country. Now, thousands of copies of this paper have been distributed in India today and the man in the street who will read it will take it as gospel truth. My Honourable friend, Mr. Ranga Iyer, is also a journalist. He may try his best to refute the arguments in this newspaper. I suppose all of them are not alike. There are journalists and journalists. My friend, Mr. Ranga Iyer, whom I wish to congratulate on his re-election as Deputy President of his noble party, whatever he may do, the remarks which have been made will instil poison into the minds of the Hindu public against Sir Fazl-i-Hussain. It is very good to maintain the freedom of the Press. I admit that the Press is extremely necessary for civilising a country. The power of the Press is extremely necessary if you want to run a constitutional Government in India, but a Press like this ought to be crushed and the sooner it is crushed the better it would be for the country and the people of this country. Now, Sir, that is not all. You will find how hatred is being created against the Members of this House by this Press. Here is an article by their

[Sir Muhammad Yakub.]

Staff Correspondent. The heading is "What Price Glory". Then it says:

"The Government is not likely to make up its mind with regard to M. L. As. to be nominated as dummy members of the Joint Parliamentary Committee of the Round Table Conference to consider the Government of India Bill till the Ottawa and the Ordinance legislation is safely through the Legislature.

But so keen is reported to be the race for seats on the Parliamentary Committee that some members of the Central Committee that toured with the Simon Commission are reported to have sought the authority of the utterances of the Prime Minister, Sir John Simon and Lord Irwin to press their claims.

One of them is reported to have sought an interview even with His Excellency the Viceroy to press his claims.

No wonder that the Government consider themselves safe on the Ottawa and the Ordinance Bills."

I strongly repudiate, on the floor of the House, the insinuations which have been made against the Honourable Members of this House in this note and I submit that it is not enough that the Press should be controlled only in the matter of violence and murder. To have a better control of the Press is extremely necessary to avoid the publication of such news as I have read out. You may have any number of Unity Conferences. You may have any number of talks among your leaders, but if things like this appear in papers, it is impossible to attain unity among the communities in this country, and, therefore, I support this clause and I oppose the amendment.

Mr. C. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): Ordinarily I should not have spoken on this amendment for the very simple reason that the Mover of that amendment has spoken on it and if I rise to speak it is first, to thank my friend who comes from the same constituency as I do for congratulating me on my re-election to my office on this side of the House. Even though the Honourable Member from Moradabad read out two cuttings, I do not believe under the Press Act, as it stands, or, for that matter, under the Ordinances the references he has read out could be stopped from—or punished for—publication in the newspaper Press. I say as a working journalist that unless you suppress all the newspapers in this country, you cannot suppress the publication of news, however inconvenient, however unsatisfactory or however ill-balanced or unfounded that news may be. I admire Sir Muhammad Yakub's loyalty to Sir Fazl-i-Hussain and I also like some of the fine sentiments that he has uttered about that distinguished Member of the Viceroy's Executive Council about whose many-sided talents all of us have such real esteem; but how can you prevent newspapers in this country from publishing views of that kind, and is the prevention of the publication of such news to the good of public life or journalism in this country?

I remember, while in London, when the great controversy raged against Mr. Baldwin and Lord Irwin, how the *Daily Mail* came out with flaming streamer head lines stating how Lord Irwin had secured the previous consent of the then Leader of the Opposition, Mr. Baldwin, for the declaration of a policy on Dominion Status for which His Majesty's Government was responsible.

The *Hindustan Times* which is ably edited by my friend, Mr. Joseph, a very reputed journalist, has not got a hundredth of the circulation of the *Daily Mail* whose circulation runs into two millions or perhaps six millions. No Indian newspaper has that circulation, and the news that appeared in the *Daily Mail* was wired out to America and it was wired out to Europe, and Mr. Baldwin was bitterly attacked in the Rothermere Press.

Sir Muhammad Yakub: No paper in England would publish communal hatred. This is the difference between the public opinion of the two countries. In India such Press publishes communal hatred and creates communal hatred.

Mr. C. S. Ranga Iyer: I bow to my Honourable friend from Moradabad, and if he brings forward a Bill declaring communal hatred as sedition and designed to suppress the communal Press, I shall vote for such a Bill. (Hear, hear.) But I was saying how the suppression of false news is impossible so long as the news is not considered to be false. The proper duty for the Government, when their Executive Councillors are attacked,—if they feel the attack and it is untrue—is to make use of their Publicity Department and issue communiqués and contradictions immediately. If the news read out by the Honourable Member who just spoke is so flagrantly untrue, the Government's duty was to issue a communiqué and to say it was untrue. It is no use coming to this House and saying that because such things are published, therefore the Press should be suppressed. Unfortunately there is communalism in the country: and as long as Honourable Members on that side stand for separate electorates and we on this side stand for joint electorates, and there is no amicable settlement, communalism will flare up

Sir Muhammad Yakub: Ask my friend, the Sardar Sahib,—who wants a separate electorate in the Punjab.

Mr. C. S. Ranga Iyer: I know my Honourable friend wants it, because others want it, and I do not blame him for wanting it, because this is a communal country. I am not attacking those who advocate separate electorates. I am only pointing out that they create communalism, and communalism is a pond that breeds reptiles. (Cheers.) Those reptiles find expression in the manner in which they are finding expression in the Press of this country.

Sir Muhammad Yakub: Read today's proceedings of the Round Table Conference and you will find who are the communalists.

Mr. C. S. Ranga Iyer: Sir, if you read the proceedings of the Round Table Conference, you will find that everyone who represents a community from a communal point of view is a communalist. I have no quarrel with communalists. If my Honourable friend and I had been at the Round Table Conference, we would have measured swords over communalism. If I had been advocating general electorates and he had been advocating separate electorates, we should have measured swords. If communalism is healthily conducted as my friend, Bhai Parma Nand, conducts it in the Punjab or my friend, Sir Muhammad Yakub, conducts

[Mr. C. S. Ranga Iyer.]
it in the United Provinces, we cannot take exception, because they are entitled to their opinions, but I was referring to the publication of false news or incorrect news so far as the *Daily Mail* of London was concerned on a historic occasion; and, then, Mr. Baldwin, in the course of his speech in the House of Commons, had to repudiate the *Daily Mail's* suggestion. He said that every statement and every implication of that fact was untrue. If in an educated country, the most educated country in the world, where the Press is supposed to be restrained, questions involving the destiny of the Empire and personalities associated with the making of that destiny could be misrepresented in the manner in which the *Daily Mail* represented them, and if freedom could nevertheless be enjoyed by the Press in that country, then I do not see why the same freedom should not be extended to the Press of this country. (Applause.)

Sardar Sant Singh (West Punjab: Sikh): Sir, I stand to support the amendment of my Honourable friend, Mr. Mitra. It is unfortunate that in the discussion of this relatively innocent clause, communal heat should have been introduced by no less a communalist than my friend, Sir Muhammad Yakub, the Knight from Moradabad. The stand that he has taken up against communalism is also most welcome, particularly to the Sikh community. I am voicing the feeling of my community without fear of any contradiction from any quarter when I assert that the Sikh community will welcome the day when the curse of communalism disappears from this country. I have nothing to say against the person of the Honourable Sir Fazl-i-Hussain, and I am not supporting the truth or otherwise of what has appeared in the Press about his alleged activities but, coming from the Punjab as I do, I will be giving expression to the general feeling of non-Muslims of the Punjab, when I say that Sir Fazl-i-Hussain did introduce the poison of communalism in its acute form in the Punjab which, later on, found its repercussions in India. (Voices: "Question, question", "Shame, shame.")

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order. We are drifting too much into the communal aspect,—which may only be referred to in passing. The Honourable Member appears to be concentrating on that issue, and the Chair considers that to be very undesirable on the present issue.

Sardar Sant Singh: I bow to your ruling, Sir, but the question before the House is whether the Press should be permitted or should not be permitted to give vent to the communal feelings to whose tastes they cater. My friend has taken his stand on the argument that because the Press advocates communalism, therefore it should be suppressed. I would have welcomed the suggestion if the Press alone had been the sinner in this respect. But the reality is that the policy of the whole administration, and it is the policy which is advocated and probably sponsored more by my friend, Sir Muhammad Yakub, than any other Honourable Member of this House, fosters and encourages rivalries and bickerings amongst the various communities in India.

Sir Muhammad Yakub: Even a rank communalist like Yakub is beaten hollow by the Sikhs

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order. The Honourable Member, when he was addressing the House on a recent occasion, very strongly objected to being interrupted,—and now he is himself indulging in frequent interruptions.

Sardar Sant Singh: Now, Sir, referring to communalism, I cannot deny, Sir, that it had its birth in the Punjab and the Punjab Press did take it up. The reason was that first of all communalism found its place in the appointment to, and discharge of persons from, the public services by a particular Minister. The greater part of the Press did publish those news and commented upon such appointments and discharges on communal grounds in inflammatory language. The start was given from the Punjab and was very readily taken up by the United Provinces, with the result that when we came to occupy our places here in the Assembly, as elected Members for the Sikh community, we were forced in sheer self-defence to defend our claims to our share of the public services. May I ask my friend how many questions he has put in the Assembly relating to communal matters? Does he or does he not like that his activities in this respect should be published by the Press? Probably my friend is in chastened mood and hence I will invite him to come and join hands with me. I am quite willing and am ready to enter into a pact on behalf of the Sikh community with him to the declaring effect that in future our respective communities would not permit its representatives to ask any communal questions in any Council, and would refrain from asking the Government to make appointments to the public services on communal considerations. Such a declaration I shall at once welcome and can assure him that the Sikh community will be the first to welcome it.

Last time, Sir, when the Press Act was on the anvil during the September Session, this very preamble was changed from "for the better control of the Press" to its present title—The Indian Press (Emergency Powers) Act, 1931. That Press Act is still in force. The Ordinance has been now in force for the last one year. May I ask, why it has not been able to control the Press sufficiently so much so that my Honourable friend now wants to control it by enacting these provisions for another three years? If the Ordinance cannot prevent the *Hindustan Times* from publishing such a news, certainly it will not be able to prevent it from publishing news of this character even by enacting this measure. The liberty of the Press is always healthy. It always provides a safety valve for the grievances of the public and, once the safety valve is closed, the danger is more to the society and to the administration than to the Press itself. I, therefore, support this amendment.

Sir Hari Singh Gaur (Central Provinces Hindi Divisions: Non-Muhammadan): Sir, I did not intend to intervene in this debate, but I feel constrained to do so on account of the extremely provocative speech which Sir Muhammad Yakub has delivered this morning.

Sir Muhammad Yakub: Not at all.

Sir Hari Singh Gaur: Unfortunately he has suffered from a confusion of thoughts and ideas which must be his excuse for delivering that speech.

Sir Muhammad Yakub: I have borrowed it from the Leader of the Nationalist Party.

Sir Hari Singh Gour: But in spite of all that might be said in favour of my friend, Maulvi Sir Muhammad Yakub, there remains a residuum which we on this side of the House must indignantly repel. My Honourable friend, oblivious of the issue before him, first launched an attack upon the Vernacular Press of this country

Sir Muhammad Yakub: Not the whole of it.

Sir Hari Singh Gour: and then indulged in gratuitous diatribe against creating communal spirit in this country. Finally, he wound up by an appeal to the House that the Press in India, not necessarily the Vernacular Press, but all Press in India, should be muzzled, because it gives vent to views and publishes views which may be or may not be true or correct. Sir, the Honourable Maulvi will find that during the last few days I have been the central target of attack by that very paper to which reference has been made by the Honourable gentleman, but that does not prevent me from standing here and doing my duty uninfluenced by all that has been written by that paper against me personally and against persons who represent my views upon a momentous question upon which this House will be called upon to decide in a few days. As regards the news that has been given expression to by the paper to which the Honourable Maulvi referred, let me assure the Honourable gentleman that so far as we on this side of the House are concerned, we pay very little attention to news which seems especially to interest him. We are more concerned with the ventilation of grievances which affect the public and for that purpose we desire that the Press in India should be absolutely free and unfettered by the trammels of emergency or other legislation. Sir, so far as the tightening up of the Press Act is concerned, let me assure the Honourable Maulvi that only last year we examined the whole question of the Press Act and it is true that ultimately the Preamble was changed, restricting the Act to the publication of matters inciting to or encouraging murder or violence, but Honourable Members of this House should not be unaware of the fact that when the Bill was introduced in this House, it had a wider scope and it was in the Select Committee that the Preamble was altered. If Honourable Members will refer to that Act, they will find that the provisions were intended to deal with all cases of emergency, not necessarily an emergency of the character described in the Preamble. Sir, at the present moment we are dealing with one short question, the question how to cope with the civil disobedience menace and I cannot understand what bearing Sir Muhammad Yakub's remarks have on the question of civil disobedience. We are here concerned with one short, narrow issue—are we justified in gagging the Press so as to prevent it from disseminating news and giving expression to views conducive to the growth of a civil disobedience movement. That is a short question, but my friend never said a word about it. He launched a diatribe against the Vernacular Press, against communalism and referred to a certain correspondent's views on the subject of the leadership of this House. Sir, for the last 12 years, I, standing as a leader of several parties, have been impressing upon the Government that the Law Member should be the Leader of this House, because all important legislation is initiated here and we cannot allow a subordinate of a Law Member to take his place as the chief and responsible spokesman in this popular Chamber. That is a fact which my friend cannot deny and I am very glad that once, at any rate, we

have a man who is a custodian of the law and, let us hope, justice of the Government of India. (Laughter.) He is able to speak with that unique authority as the law giver of that part of the House

Sir Muhammad Yakub: But you do not accept his exposition of law.

Sir Hari Singh Gour: on matters of day-to-day business and legislation. My friend on the other side has raised the wind and he will not be surprised if he and his friends stay to reap the whirlwind. Communalism is not a cry on this side of the House at all and let us dismiss for the time being all questions of communalism and think of the civil disobedience movement and the question of the Press with that movement. In that narrow light I wish to ask the Honourable the occupants of the Treasury Benches that so far as the Press of this country is concerned, we have sufficiently muzzled it under the Act of 1931.

I remember, Sir, what the Honourable the Home Member said the other day that the Act of 1931 passed in October last year was designed to deal with a special political malady and that it had no reference to the civil disobedience movement. Granting that, I wish to know what provisions of that Act would not equally apply to the political disturbance of which the Honourable the Home Member complains and whether the general law coupled with the emergency law which we have placed on the Statute-book should not be resorted to for the purpose of dealing with this new political movement which the Honourable the Home Member wishes to suppress. After we have explored the possibilities of using the present law and found it wanting, then and then only should the Honourable the Home Member come before this House and say: "We have tried this weapon that you gave us. It is not sufficiently effective, and, therefore, we want another and a stronger weapon to cope with the civil disobedience movement which is going on in the country." But, as it is, I find that this Bill would not only muzzle the Press, but it would prevent the Press from giving the news which every man in this country would like to know; and the Honourable the Home Member could not be unaware of the fact that the more you muzzle the Press, the more you set a premium upon the dissemination of false news and rumour from mouth to mouth. It is far more dangerous to let the people gossip about what is taking place than to have a Press which publishes news which Government can contradict and the value of which the people can judge for themselves. There is one chapter in the Statutory Commission's report drawn up by that trusted journalist of the English Press, Lord Burnham; and he points out that if you really wish to bring the policy of Government and the problems confronting them to the notice of the public, you have yourself to develop your publicity department. Merely asking this House that the Press shall not speak is not enough, because, with the growth of education and knowledge, the public of India are anxious to get news: and the Press of India is in its infancy. I have known countries where the daily press has circulation by the million. My friend, Mr. Ranga Iyer, has referred to the *Daily Mail*. I know some papers in the Far East, the daily circulation of which averages 2½ million copies and every man, woman and child, from the highest to the lowest, is a reader of the newspaper. The newspaper is the poor man's university; and if you really wish to encourage mass education, as it is the wish of Government that it should be encouraged,

[Sir Hari Singh Gour.]

you must encourage the Press in India. It is the cheapest form of mass education. You cannot have a Press which simply publishes items from the Court circular and Government news, that Mr. So and So was transferred from one place to another. It must take an interest in the live issues of the day, issues in politics, religion and society; and all these are factors in which the public are most interested. The recent examples of the oppressive nature of the Ordinances in Bombay and Calcutta dealing with the indigenous Press has made us fear that this will again be an engine of oppression to the growing Press in this country, and it is for that reason that we are extremely anxious that while Government should be given every possible help, we must call a pause to the legislative activity of this House when it wishes to snip out of existence the indigenous Press which will not long survive the attack that this Bill is intended to make upon it. It is for that reason that we on this side of the House will strenuously oppose, unsuccessfully though it may be, the muzzling of the Press. I know that during the last few days, Government, assured of their majority, have dealt with all amendments, however reasonable, in a cavalier spirit. I also know that we are not able to bring up our reinforcements to give Government battle on equal terms. But we were assured the other day by His Excellency the Viceroy that this is a Chamber and a country where persuasion counts. May I remind the Honourable the Home Member of that magic word, persuasion.

Mr. Muhammad Yamin Khan (Agra Division: Muhammadan Rural): Sir, I have got great regard for my old and esteemed friend, Sir Hari Singh Gour, with whom I sat for three years in the same Party in the first Assembly, and I congratulate him on the moderation of his speech and the spirit in which he delivered it. He avoided all the heat which had been created in the House, but by his moderate speech he brought down the atmosphere to great coolness. I, however, do not agree with the points which he made, and I do not hold any brief for my Honourable friend, Sir Muhammad Yakub, when I say that what he wanted to urge before the House was not communalism which he was condemning, but he only gave some instances of the irresponsible manner in which certain papers are conducted. What he meant was that this kind of Press is doing the greatest disservice to the country and he intended to say that that sort of Press is not a patriotic Press though they distribute news in the name of patriotism, but in reality promote communal hatred. He was the first to condemn communalism and the Press which promotes it between the people. What my Honourable friend, Sir Muhammad Yakub, wanted to urge was this that all the trouble in India which is impeding the progress of the country is communalism which is created and engendered in the minds of the people by the irresponsible Press which unfortunately we find today in India.

Sir Hari Singh Gour: And the irresponsible people as well.

Mr. Muhammad Yamin Khan: Quite right. Irresponsible people when their minds are affected by the irresponsible dissemination of news create these troubles. Irresponsible people would not be affected if there was nothing to feed their sentiments from the Press. This is the feeder which is pushing them up and creating these disturbances in the country.

But, Sir, coming to the point, what I want to urge is this, that my Honourable and learned friend says that the Press should not be muzzled. I certainly would be the last person to ask that a responsible Press which might help the creation of good feelings in the country and the achievement of progress in the country should be in any way touched. But what Press has been touched here? No responsible pressman will ever be affected by this law, but that kind of Press which makes martyrs of people who have committed all kinds of atrocities and tried to take away not only the liberties, but the lives of people. These people are made into martyrs by a certain section of the Press, and that Press gives some people, when they commit atrocities, titles of heroes, and they are extolled as martyrs, and that leads the other young people who cannot pay any attention to the harm it brings and they go up and commit the same atrocities in the country which have been the greatest drawback in our progress. I can assure my Honourable friend if he sees coolly—I know he does not agree with those kinds of activities, if he did agree, he would not be in his seat here today, but let him judge coolly whether they have not put the hands of the clock back. Have these misguided patriotic youths not have made the country's progress retard. Let him judge coolly and he will find that you are losing all your public opinion on account of these few misguided youths. Their actions are responsible for this drawback in your public life and who has made them do this? This irresponsible Press. This irresponsible Press has taught them to do certain kinds of acts which had impeded the progress of your country and if this kind of propaganda is stopped by this measure, I think the greatest service will be done to the country. Two things you will require—peaceful progress in the country, best understanding between the two communities. If you gain these two objects, you will march slowly but surely on the path of your freedom for this country. Without this you can never gain. I assure my friend that this Bill is not intended in any way to hinder or to take away the liberty of that class of Press which stands or which makes the propaganda for the progress of the country. With these few words, I oppose the amendment.

Mr. B. V. Jadhav (Bombay Central Division: Non-Muhammadan Rural): Sir, self-complacency is a virtue and it leads one to admire one's own opinions and to condemn those who are preaching against those opinions. That has been the general practice all over the world. In England also the yellow Press is condemned by the more moderate opinion, because the moderates think that their opinions are the best and for the good of the country, while the opinions of the yellow Press are misleading and are leading people to their ruin. In the same way, in India, we find some persons condemning the Press and some persons extolling it. The Press has no doubt contributed much to the uplift of India as a whole. Without the Press education will not spread; and if we are to say that only the pernicious part of the Press should be suppressed and the others encouraged, I may point out that that will be almost impossible. It is very difficult to draw a line between the pernicious and the non-pernicious. Broad principles might be laid down and something in that way might be tried; but we have to be careful that we do not kill the best with the worst.

The Vernacular Press has always been under suspicion for a very long time. If I take myself back to about half a century, we shall find that in Lord Lytton's days there were the repressive measures for controlling

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the Vernacular Press. The Vernacular Press had always been the eye-sore of the governing section of the community. But now-a-days it is not only the Vernacular Press, but also the papers which are published in the English language which are found to be very objectionable and various devices are utilised to put them down. This Bill is an attempt in the same direction. It is not merely intended to suppress the Vernacular Press which is charged with misleading the people. The Press which is now wanted to be brought under control is the English Press, that is the papers that are published in the English language; and my friend, Sir Muhammad Yakub, gave expression to his feelings by quoting passages from an English daily paper published in Delhi. I need not say anything about the subject matter of those quotations. We all know and we all feel how we admire the Honourable Sir Fazl-i-Husain. He has been a very fine man and a very fine officer and he has been doing his duty very conscientiously. At the same time, persons in authority will come in limelight and attract some attention from the members of the Press to face criticism. It is, I shall say, the penalty for being great. If my friend, the Honourable the Law Member, or the Member for Commerce or any other Member, is criticised in the Press, it ought to be taken as a compliment and one need not be very much angry with those criticisms. The Vernacular Press mostly has got a very poor circulation and they find it very difficult to make both ends meet. There are very few Vernacular papers whose circulation goes over three or four thousands: and many of them do not come to even 200 or 300. They are eking out an existence, and I think they ought not to be troubled at all. Their views reach a very few people and, as a matter of fact, the editors of those papers have not got the intelligence or the means to displease a powerful Government. But some of the English papers are very bold enough and many a time one might, if one is very critical, point out articles which are objectionable. But as they are published by big English syndicates, the Government will not pay any attention to them and we, on our side too, read them and simply laugh at them, because we know that they can do us no harm. It pleases the English side of the Press and it does India no harm

Mr. S. C. Mitra: It does great harm.

Mr. B. V. Jadhav: The claim has been made here that the Press is the ventilator of the grievances of the public and the gagging of the Press is ultimately to the loss of the Government themselves. I support that view and urge on this House that the passing of any repressive measure, especially gagging the Press, is not a very good thing, and I, therefore, support this amendment.

Mr. B. N. Misra (Orissa Division: Non-Muhammadan): Sir, the saying goes "Everybody for himself". Probably every community speaks for itself, and perhaps extols its past and thinks of its deplorable present condition; but I think the Press is for us all; the Press is not for this man or that man or for this community or that community or of this society or that society. The Press, if you feel offended today, I think it will come to your defence and will defend you in so many words and so many articles; and when we feel offended one day, I think the Press will come for us if we have been offended in so many ways and the Press will defend us also. So also officials; if they see

some day that an unreasonable and unnecessary attack is made against them, the Press will come for them and will defend them and will extol their goodness, glories, and so on. So to talk of the Press as communalist, or this side or that side, I think we are entirely mistaken, to either press, oppress or repress the Press (Laughter) on that ground. Some Press will take the Congress view and some will take the Government view.

Sir, I am reminded of a saying in Sanskrit "*tramelakam nindati komaletsu*". The meaning of that is the goat always blames the camel on the ground that it takes the big twigs and trees and does not take the soft green grass like the goat. Now, the Government blames the Congress or one community blames the other, and so on, but each has its own justification; but the Press at any rate should be kept above and beyond all these communal or other quarrels. We have got the man power, the wealth power, or power of intellect, and so on, but the Press is a power above all these powers, because the Press will one day blame the Government if they do anything wrong, it will blame a particular community or body or association another day if it goes wrong; similarly it will praise the Government one day if they do any good to the people. Therefore, the Press should be regarded as above all and beyond all politics. The Press writes one paragraph for the Congress today and it writes another paragraph for another community tomorrow or sometimes it also writes against a community or the Government if they go wrong. Therefore, we should not make any attempt to gag the Press simply because it is a Vernacular Press or it is a Congress Press. We all take a particular view about certain questions, according to our training, our liking or disliking, some take a communal view, while others take a broader view, and so it is quite clear that if communalism itself did not come out of us, how could the Press come out with that news this morning, to which allusion was made here. Therefore, the Press should not be blamed on the ground that it is always taking the Congress view. If the Congress does something wrong, then that very Press will condemn the Congress instead of praising it. Why should the Press be gagged? Sir, in India the Press has got very small powers, though in all the other civilized countries the Press has got immense power. Therefore, no attempt should be made to suppress the Press by this Bill, and the amendment that is brought before the House is really commendable, and everybody should lend his support to it. If at any time the Press goes wrong on any particular question, then that matter can be considered and judged on its own merits, but why should the Press be gagged as a whole? Sir, I support this amendment.

The Honourable Mr. H. G. Haig (Home Member): Sir, the Honourable the Mover of this amendment very justly pointed out that his proposal was merely incidental. If in fact clause 16 of this Bill is passed, it becomes necessary as a matter of drafting to alter the preamble of the existing Press Emergency Powers Act in the manner proposed in this clause. It is, therefore, really a matter of drafting. As Honourable Members are aware, the Press Emergency Powers Act was passed with a very limited intention. It was intended only to control the Press against inciting to or encouraging murder or violence, and we propose now to extend that control over a much wider field. My Honourable friend, the Leader of the Nationalist Party, who has a peculiar affection for that Act, in the passing of which, I understand, he took a prominent part, has asked

[Mr. H. G. Haig.]

us not for the first time why we are not content with that, why we have not tried to see whether we can proceed with those powers alone. Sir, the answer is that we have tried it in the past. Before the issue of the first Press Ordinance in 1980 at the beginning of the first civil disobedience movement, we found that the Press activities in connection with the civil disobedience movement were completely beyond our control under the ordinary law. Again, Sir, when that first Ordinance expired at the end of six months, we did, in fact, do precisely what my Honourable friend, Sir Hari Singh Gour, suggests. We observed for a period of one or two months, and the results, I am afraid, were precisely those that might have been anticipated. The situation deteriorated very rapidly, and, after this interval of observation of one or two months, it was necessary to issue a second Ordinance. I do not think, Sir, we can justly be expected to try another period of observation.

Now, Sir, this debate has provided one interesting incident in that my Honourable friend, Mr. Ranga Iyer, has promised in one respect at any rate to support clause 16 of this Bill, for, he said, that if any proposal were put forward which would have the effect of controlling the communal Press, he for one would vote for it. Well, Sir, I would invite his attention to sub-clause (h) of clause 16, and I confidently expect his support to that sub-clause at any rate.

My friend, Sir Hari Singh Gour, suggested that we were not duly receptive of the arguments addressed to us from the other side of the House and he begged us to have some regard to the virtues of persuasion. Sir, I think we have listened very attentively to the arguments which have been addressed to us during these many days when the Bill has been before the House, and I would ask Honourable Members opposite to remember that we have not made these proposals lightly, that we had thought over them very carefully before they were introduced and that we have reviewed them very carefully during the Select Committee procedure, and I would ask them to think that possibly if we do not allow ourselves to be persuaded by the arguments that are addressed to us, it may not be that we are obstinate in the wrong, but that we are firm in the right. Sir, I oppose the amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question which I have to put is;

"That clause 14 be omitted."

The motion was negatived.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That clause 14 do stand part of the Bill."

The motion was adopted.

Clause 14 was added to the Bill.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That clause 15 do stand part of the Bill."

Mr. C. S. Ranga Iyer: Sir, I move:

"That clause 15 of the Bill be omitted and the remaining clauses be re-numbered accordingly."

Sir, my only reason for moving this amendment is that I belong to the Press, and this is one of the two amendments out of a list of 100 that I happened to give, but I do not propose to take much time of the House, for I am convinced that the Honourable the Home Member is obstinately stiff and persists in his wrong belief. Sir, I would only draw his attention to the statement made by his distinguished predecessor with whom we had a very good discussion in the Select Committee on the Press Bill. Sir James Crerar said that "Government had already gone a long way in reducing the period from three years to two years, and if we went beyond that", he added "we should be failing in our duty". His distinguished successor has gone beyond that in the opposite direction (Laughter) and obviously he is performing his duty. But my duty to the House and the Press compels me to oppose his attempt to extend the period of operation of the Press Law because all its detrimental effects will be upon the Press for the extended period.

Mr. B. Sitaramaraju (Ganjam cum Vizagapatam: Non-Muhammadan Rural): I would like to add only just a word. Government seem to have no justification at all for extending the period of these provisions. The Press was already penalised under the old Act, and as my Honourable friend has just now read a passage, it was a definite undertaking given to this House that its operation would come to an end at a particular period. We have been alienating the sympathies of the Press already. I would like to ask the Government whether this is an occasion to further alienate the sympathies of the Press at a time when, according to them, constitutional experiments are to be made in this country. With these few words, I support the amendment.

The Honourable Mr. H. G. Haig: With reference to the remarks made by my Honourable friend, Mr. Ranga Iyer, in regard to the duration of the Indian Press (Emergency Powers) Act, I would merely refer him to the fact that we are here dealing with totally different conditions and considerations to those which applied in the case of that Act. As he will remember, that Act was passed in order to deal specifically with the terrorist movement. It was passed at a time when the civil disobedience movement was not in operation, when, in the words of the Congress, it was suspended and there was some reasonable expectation that it would not be renewed. Those conditions unfortunately do not prevail at the present time. The question of the duration of the Bill generally will come under consideration in connection with the amendments that are proposed on clause 1, and I, therefore, do not propose to enter into those considerations now.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question which I have now to put is;

"That clause 15 of the Bill be omitted and the remaining clauses be re-numbered accordingly."

The motion was negatived.

Clause 15 was added to the Bill.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That clause 16 do stand part of the Bill."

Mr. S. O. Mitra: Sir, I move:

"That clause 16 of the Bill be omitted."

As I have already observed in connection with my previous amendment, an attempt has been made in this clause not only to widen the scope of the Press-controlling-legislation, but to widen it too much so as to bar even legitimate criticism. It is not better controlling the Press, but really suppressing the whole of the Indian Press. On referring to the old Press Law of 1910, I find that some of these clauses excepting sub-clause (h) and sub-clause (i) were also in it and when it was repealed in 1922, there was no necessity for the next ten years to have these repressive laws. In the Ordinances, they were all incorporated, but in October, 1981, when Act XXIII of 1981, the Press Emergency Act, was enacted, only the clauses relating to violence and murder were enacted and the other portions were left out. The Honourable the Home Member said that the experience of the two or three months, when there was no such legislation in force, as is being contemplated now, was that the freedom of the Press was abused. He has not cited any evidence, nor are we in a position to say whether there was a necessity during the regime of the Press Ordinance for application of these clauses. The clauses are so wide as to include almost any kind of criticism. It begins with—"anything that tends directly or indirectly"—the word 'indirectly' extends the scope of the clause to any extent. Then the clauses deal with "seduction of soldiers", or "hatred or bringing into contempt the British justice in India". The persons who are guilty of these offences as also other people coming under the newly created offences may be punished by proceeding against them in a court of law, but if such wide powers are given to the Executive to proceed against the Press, they are sure to be abused.

It is known to Members of the House that not only on one occasion but on many an occasion, after the passing of these Ordinances, security was demanded from newspapers on the very day that the Ordinances were promulgated. In the case of the *Hindustan Times* of Delhi, if I remember aright, security was demanded on the very day the Press Ordinance was promulgated. There was nothing to prove that they had infringed any of the sections of the Ordinance, because the security was demanded the very day on which the Ordinance came into force. That shows that the Government or the magistracy are not inclined to exercise their power discreetly. Any opinion that is not to their liking, or is found to be hostile, is immediately punished with some demand for security from the paper. Before widening a legislation which is already too wide we should see that public opinion in this country is not altogether stifled. As Sir Muhammad Yakub rightly admitted, the Press has an educating effect on the masses. If anything and everything that appears in print is believed by the villagers, the fault is not of the newspaper publishers or editors. The education that the villagers have got during the last 150 or 160 years of the British rule have not helped them to discriminate between what is wrong and what is right and it is no use putting the guilt at the door of the newspaper editors. As regards the communal feelings it is the duty of the Press to give expression to the real feelings that are in the nation. The papers

are as much helpful to the Government as to the public for they give expression to the inner thoughts of the nation. If Indians are communal, I do not see why the Press should not rightly interpret that feeling and give expression to it. I have no quarrel with people who sincerely believe that there should be communalism, but I regret the intolerance of the communalist when he finds that his communalism is replied to by the other communalist. Let us be fair to both sides. If we were to enact laws against manifestation of communalism which is often evidenced in some of the interpellations in this House, I think we should begin with ourselves in this House. Sir, I do not see why the papers should not publish what is true. It may not be palatable and relishing, and for a despotic Government like the present bureaucratic Government, which are not responsible to anybody, I think it is to their best interest to encourage honest and public criticism of their action. Instead of having a legislation gagging the entire Press, Government should see that the feelings of the people may be properly ventilated. If there is wrong information, if there is misleading news in the Press; certainly other courses are open. There is not only one Press which is controlled by the Congress. In this House it is always claimed that the Congress influence is not great, that they do not represent the majority or the masses or even the cultured classes. Why should not other non-Congress people start their own newspapers? In all countries, as Mr. Ranga Iyer pointed out, advantage is taken not only by politicians, but by other classes to ventilate their views and sometimes it is really very difficult to say what is the correct opinion because judgment is always biased by inclination and interest of the particular individual, even unconsciously. By this measure even legitimate criticism will be stopped. Just now I got a letter from the Editor of one of the Vernacular papers in Bengal that has the widest circulation in Bengal. He writes to me to say that under the pretext of attaching paddy for realisation of punitive taxes, all the village riff raffs go with the police and plunder the paddy that has been gathered in the granaries of the villagers in Nandigram village of Tamluk sub-division in the District of Midnapur. He says, they have got authenticated reports from several persons, but they dare not publish it in the papers, because that will come under some of these clauses as saying something against the police as a class. This is not an imaginary case. Every day journalists are feeling that they are failing in their duty to the public in not drawing attention to these grievances and events that are happening in India almost every day in the name of dealing with civil resisters. If this clause is to be strictly construed, Government will be found to be guilty in more cases than one, for setting up class against class. I find in my constituency of Chittagong, Government have ordered the realisation of punitive taxes from Hindus alone. They have treated the whole Hindu community as presumably guilty of revolutionary crime. There are number of instances in which attempts are made to set class against class and, if this clause is to be strictly applied, Government officers will be found guilty. There may be some idea among my Muslim friends that this lawlessness will not affect their fellow brethren. I have got in my hand a telegram from Mr. Abdul Maabud, President of a meeting in Chittagong. He wires:

"Grossly insulting searches of about 150 respectable Moslem houses of Alkaran in the town made Wednesday 16th instant on meagre information regarding absconders indignities caused to *pardanashin* ladies some inside the house and some dragged to considerable distance and exposed in public street after removing male members under arrest to another place some *pardanashin* ladies roughly handled and rudely treated in

[Mr. S. C. Mitra.]

the name of searches and Moslem males beaten and some grossly insulted. *Mosallies* stopped from going to mosque. *Mosazzen* of Alkaran mosque threatened with bayonet and revolver to prevent *Azan* of afternoon prayer. In view of these facts learn great consternation causing bitter resentment and indignation in the Moslem community. This large mass meeting assembled at Jamah Mosque premises on Friday 18th instant at 2 P.M., after Juma prayer under the presidency of Jamah Mosque Imam severely condemns such outrageous deed on innocent peaceful Moslem citizens of town and urges on His Excellency for an immediate inquiry by an impartial commission of officials and non-officials and for proper and adequate redress."

Even such a report of a meeting will not be published in any newspaper in Bengal, because it will come under the present Press Law. So, I say, that in this question there cannot be any difference between communities and individuals. When there is oppression, everybody in the country will suffer from it. We are not quoting imaginary cases in which this law will be rigorously enforced. Now, Government also claim that the civil disobedience movement has been controlled, let there be no more drastic legislation, at least as regards the Press, by which alone Government will be in a position to know the sentiments prevailing among the masses. Sir, I move for the deletion of this clause.

Mr. C. S. Ranga Iyer: Sir, I, on behalf of the Indian Press and in my capacity as the President of the Upper India Journalistic Association, beg of the Honourable the Home Member not to drive the lid down the seething cauldron. Sir, the Press is the safety-valve, and I would ask him not to sit on the safety-valve. Sir, it is unnecessary for me here today at this late stage, and especially in view of certain considerations that you, Mr. President, urged, and with which I am fully in agreement, to prolong the agony, for it is agony to me, of this futile debate. I know that the Honourable the Home Member has had for every "why" emanating from this side of the House, a "wherefore" all his own, but as a working journalist I would ask him to consider and reconsider his position, because he is not taking action or contemplating the sanctioning of taking action under this measure against the offending editor, but against the newspaper Press. If he persists, as he has been persisting, Sir, in the evil course, I would only beg of him once again to consider one or two things. The operation of this law will be in the hands of those who will be the victims of the attacks in the Press. It is they who would like to set up the criterion of journalistic goodness. I would beg of the Honourable the Home Member to consider whether,—if he should persist,—if he would not at least inform the district officers concerned through the Local Governments and if he would not give an assurance on the floor of this House, that not one warning but two or three warnings would be given to the Press before any action is taken. If he does not propose to grant this simple request, there will be no other alternative but—if my Party agree and if my colleagues agree—to press this motion to a division.

Sir Muhammad Yakub: Sir, far be it from me to advocate the stopping or the crushing of the Press in India. When I made my speech early this morning in opposing the motion for the deletion of clause 14, I made it quite clear that I appreciated the services of the Press in the country and that I recognised the work which it is doing in educating the masses. What I said, in that speech, was that there is a section of the Press which is creating trouble in this country, which is fanning the civil disobedience movement and which is giving encouragement to lawlessness,

and I submitted that it was that section of the Press whose activities ought to be brought under control. I hold that better control of such Press was needed than is the case today. Sir, in the present clause, an effort has been made to enumerate the undesirable activities of the Press and this clause aims at stopping those activities. Now, can anybody deny that there is a certain section of the Press in this country which lives only upon disseminating false and exaggerated news? Can anybody deny that there is a section of the Press which lives upon creating hatred between communities and communities? Can anybody deny that there is a section of the Press which lives upon extortion and blackmailing? Sir, it is this section of the Press whose activities ought to be curtailed, but it does not follow therefrom that I condemn the Press in this country wholesale. I submit that the objectionable activities of the Press enumerated from (a) to the end of the clause are such as should not be tolerated in any civilized country, and especially on the present occasion when we find that the constitution of our country is on the anvil and we find that a very suspicious atmosphere is being created, it must be the duty of every well-wisher of the country to help in creating a wholesome, a moderate and a peaceful atmosphere at the present time. After all, as has been so often said, this Bill is not going to be a permanent measure on the Statute-book. It has so often been said that an emergency has been created by the present conditions and, therefore, we have got to take some drastic measures. So long as the present conditions prevail in the country, it is extremely necessary that such activities of the Press should be curbed or, at any rate, stopped for a short time. With these remarks, Sir, I oppose the amendment.

Mr. Gaya Prasad Singh (Muzaffarpur cum Champaran: Non-Muhammadan): Sir, I rise to support the amendment which has been moved, and I wish to do so in just a very few words. Sir, the fetters which are tied round the neck of the Indian Press are already too stifling, and the proposal embodied in this clause is of far too sweeping a nature to allow us to give our accord to it. Under the Press Act, a newspaper is called upon to deposit a security. This power has been misused in many cases in the past, and I shall just mention one instance to show that the way in which the control is exercised on the Press is so stringent that the position is intolerable. Sir, there is a paper which is proposed to be published in this City of Delhi under the name of *The National Call*, and Mr. Sahani, who was the editor of the *Hindustan Times*, is going to be the editor of this paper. Now, before this paper has been even called into being, it has been called upon to deposit a security of Rs. 2,000—the maximum security under the law. Now, I ask, why has the security been demanded? The paper is still in the womb of futurity. Mr. Sahani had previously been editor for about seven years of the *Hindustan Times*, and it would seem that because of his connection with that paper this security has now been demanded. During his editorship of that paper, it was called upon only once to deposit a security; that was in 1930. The matter went up to the High Court, and the High Court declared that the demand of security was illegal. But, under the Press Act, the High Court had no power to order refund of the money, or to cancel the executive order. This security which was demanded of Mr. Sahani was confiscated a few months later at a time when Mr. Sahani was in jail—about three months after Mr. Sahani had been in jail. In 1932, security was again demanded from the *Hindustan Times* in connection with certain

[Mr. Gaya Prasad Singh.]

articles which appeared in the paper subsequent to his resignation of the editorship of that paper. So it can hardly be said that Mr. Sahani's antecedents justified the demanding of a security from the *National Call* in any way, and no reason has been assigned in the order.

This, Sir, is the way in which security is being demanded without any compunction, and without any regard for the provisions of the law, and this has happened in the case of an Administration which is under the direct control of the Central Government. What are we to expect in the case of those papers which have to depend for their existence on the mercies of petty officials under different Local Governments? In my own province of Bihar and Orissa, there was a newspaper called the *Searchlight*. Security after security was demanded from that paper for small infringements of the law, sometimes more fancied than real; and the result was that that paper has ceased to exist and it has stopped publication for many months. As a matter of fact, we have no paper in our province. These are the vagaries of the executive officials, and the provisions of the clause which is sought to be enacted are of such a Draconic nature that I am unable to give my support to them. I will just refer only to one instance. In clause (h), it is stated to be an offence to promote feelings of enmity or hatred between different classes of His Majesty's subjects. That is a very laudable object, but is not the present law sufficient to cope with these situations? The Indian Penal Code was amended only a few years back, and the offence which is sought to be penalised under the provisions of this clause has also been provided for in the existing law. Therefore, I strongly object to any stringent provisions being enacted in this Bill to make the existence of the nationally-inclined papers more precarious than at present.

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

The Assembly re-assembled after Lunch at Ten Minutes Past Two of the Clock, Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

Mr. S. O. Sen (Bengal National Chamber of Commerce: Indian Commerce): Sir, I oppose the motion that clause 16 should form part of the Bill and I support the motion for its deletion from the Bill. Sir, it is admitted by the Honourable the Home Member that the provisions of the Bill are irksome and might hurt many respectable newspapers in this country. I do not know whether any distinction can be made about respectable papers so far as the Indian-owned Press is concerned. In his recent utterance, Sir Alfred Watson in England mentioned that all the Indian-owned papers in this country were against the Government and it must be admitted that Sir Alfred Watson knows more about the Press of this country than anybody else does. His opinion, therefore, should carry weight. According to him, Sir, there is no question of any respectable Indian-owned paper, because all the papers are brushed with the same paint. Under these circumstances, the hopes which were entertained by Sir Muhammad Yakub and others that this legislation will not affect the respectable section of the Press falls to the ground.

Now, first let us understand what is the necessity of this all-embracing legislation. So far as I remember, and I may be corrected if I am wrong, the Honourable the Home Member did not make out any serious case for the promulgation of such an all-embracing, repressing and, according to him, irksome legislation. In 1931, the Emergency Press Act was enacted and at that time the predecessor of the Honourable the Home Member said that the Act had not gone an inch beyond the necessities of the time. It may not be necessary for me to read any passage from his speech when he was introducing that Bill. I may, however, quote a sentence or two. This is what he said:

"The second point which I wish to emphasise is that this Bill is very narrow and restricted in its range. The Government have not sought to go one inch beyond the actual necessities of the case. Though the emergency is great, we have deliberately sought to restrict ourselves to the minimum requirements of the case."

I wish the Honourable the Home Member in the present case had followed his predecessor's steps and restricted the Bill to the absolute necessity of the present situation. This he has not done. He has brought in a legislation which will hurt anybody and everybody and will especially gag the Press for a considerable time. Now, Sir, as regards the provisions. Most of the provisions are to be found in the old Act of 1910 with the exception of the *Explanation* contained in section 153A of the Indian Penal Code. These provisions were the subject of a judicial decision in the Calcutta High Court and I may be permitted to refer to the judgment of Sir Lawrence Jenkins in the case which has already been cited three times in this House during these debates. On page 478 of the Indian Law Reports, 41 Calcutta, he says:

"The provisions of section 4 (*that is the section to which we are adding all these provisions*) are very comprehensive, and its language is as wide as human ingenuity could make it. Indeed, it appears to me to embrace the whole range of varying degrees of assurance from certainty on the one side to the very limits of impossibility on the other.

It is difficult to see to what lengths the operation of this section might not plausibly be extended by an ingenious mind. They would certainly extend to writings that may even command approval.

An attack on that degraded section of the public which lives on the misery and shame of others would come within this wide spread net: the praise of a class might not be free from risk. Much that is regarded as standard literature might undoubtedly be caught."

Sir, that is not the language of an Indian journalist, but it is the language of one of the greatest Judges who have come out to this country to administer justice and whom at a difficult time Lord Morley chose to send out to Bengal for the purpose of restoring confidence in the minds of the public. If that is the language used by such an eminent Judge, I ask the Honourable the Home Member whether, in the light of that decision, he ought not to have restricted the operation of this clause and of the clauses which are being added to same so that it could be understood by an ordinary man and which would not gag the whole Indian section of the Press. I appeal to him to see whether he cannot delete the whole clause or such portions thereof as he considers to be not necessary in the exigencies of the time and thus restrict the operation of these portions within reasonable bounds. We know how this Press Act and the provisions contained in the Ordinances are operated on. I can say how they are acted upon so far as Bengal is concerned. Even the proceedings of the Legislative Council there are not allowed to be published if they contain anything against Government. Sir, no news can be given

[Mr. S. C. Sen.]

in the papers and I know that practically every day newspapers get a sort of typed form saying that their articles do not come up to the proper standard. That being the case, how can the Press which is considered to be the fourth State function properly and use its influence even in educating the public opinion regarding the things which are coming on under the new Constitution. Sir, the object, I am constrained to say, is to gag the Press and to keep it under control so that it might not criticise the inadequacy or otherwise of the reforms which are shortly to be introduced. That is the charge which I make and I trust the Honourable the Home Member will even now find it possible to see that some of the very wide provisions are not resorted to. With these words, I support the amendment.

Mr. B. V. Jadhav: Sir, the Honourable Member who just sat down has shown how section 4 of the old Press Act, the Emergency Powers Act of 1981, is sufficient for the purposes of Government, how wide it is in its scope and how wide in its operation also it is; and I shall point out that there is no necessity of the amendments that are proposed in the new clause 16. But, before that, I should like to point out how the present provision in the Indian Press Emergency Powers Act is being worked. I shall take a typical case. In Bombay, there is a village in the district of Satara called Masur and there is a religious man who has got a press there. He generally goes all over the country and teaches a number of boys and is doing religious work. The principal work he has done so far is bringing back into the Hindu fold such persons as have gone out of it generations ago. His energies for a number of years have been confined to the territory of Goa where a number of Hindus were converted in previous generations to Christianity; but the people do not like that form of conversion and they were half-Christians and half-Hindus; and this Bawa of Masur has been proselytising and bringing them back into the Hindu fold and, up to this time has succeeded to the extent of some three or four thousands. This man keeps a press in that village wherefrom he publishes religious books, generally reprints of old books of Ramdas, and so on. In spite of all this, he was taken into custody under the Ordinance and his press has been attached, although, as far as my information goes, I do not think that anything but religious literature was published by it; and the Government of Bombay one day issued an order of forfeiture of the press and offered the press for sale

Mr. K. Ahmed (Rajshahi Division: Muhammadan Rural): Since how long has he started the paper and this propaganda?

Mr. B. V. Jadhav: Five years ago.

Mr. K. Ahmed: Ah. The cat is out of the bag! (Laughter.)

Mr. B. V. Jadhav: There is no cat in it and the bag is almost empty. (Laughter.) And although many attempts have been made to get justice for this man, the Government are so hard-hearted that they are not going to budge an inch and we now see in this House the attitude of Government towards this Bill. Clause 16 reads:

".....(c) to seduce any officer, soldier, sailor, or airman in the Military, Naval or Air Forces of His Majesty or any police officer from his allegiance or his duty."

I do not think there is any necessity of this sub-clause (c). If any individual commits that offence, ample provision has been made in one of the previous clauses of this Bill to haul him before a Court of law and, I do not think that if any newspaper is foolish enough to print such matter, it will have any effect. The editor will be liable to be hauled up before a Court of law, and, as a matter of fact, the Military authorities do take precious care of their soldiers and they do not allow any newspapers to be read by the soldiers, at all events the Indian soldiers. As the Indian soldiers are prevented from reading any Indian newspaper, so it does not matter what is published therein, and there is no necessity of providing such a sub-clause for protecting Indian soldiers; and, as the newspapers in the vernaculars are not read by Indian soldiers, I do not think there is any danger of their being seduced to give up His Majesty's service. Then clause (d) says:

"to bring into hatred or contempt His Majesty or the Government established by law in British India or the administration of justice in British India . . ."

I do not think there is any necessity of such a sub-clause, because, under the Indian Penal Code, Government are sufficiently protected and many newspapers have been hauled up and punished under the regular law of the land. And, then, it goes on to say:

"or any class or section of His Majesty's subjects in British India or to excite disaffection towards His Majesty or the said Government."

I think section 153A is sufficient protection and sufficient provision against offences coming under this part of the clause. Coming to sub-clause (e), where it says:

"to put any person in fear or to cause annoyance to him and thereby induce him to deliver to any person any property or valuable security or to do any act which he is not legally bound to do or to omit to do any act which he is legally entitled to do,"

this offence is usually done by an individual or by a number of men; and it is provided for in one of the earlier clauses of this Bill. But if a newspaper tries to commit this offence by publishing an article in a paper, his intentions will be simply futile. There cannot be any effect and, as I have pointed out just now that if any individual or if any editor or printer or publisher of a paper commits this offence, he will be liable under the previous clause. If a paper tries to do it, it will simply be useless, because we need not fear any result. Of course, in the newspapers there are sometimes advertisements in my part of the country wherein the wife gives notice to the husband that unless he pays something like 150 or 200 rupees to her for money expended by her when he had deserted her, she will marry some other man and will sue him for damages or recover from him the arrears of maintenance, and so on. That will be construed as a threat to deliver some property and that perhaps may give some work for this sub-clause. But, in other cases, I submit, the clause will be quite useless. In the same way, sub-clause (f) is of not much use. It is intended to protect Government revenues; but I do not know whether the revenue of the landlord is protected thereby. So far as I can see, the wording is confined only to the land revenue which goes into the Government coffers. There is a reference to "or any rent of agricultural land or anything recoverable as arrears of or along with such rent". I do not think that will protect a landlord against the no-rent campaign or a talukdar or a jagirdar. No provision has been made here in that respect

The Honourable Mr. H. G. Haig: Why not? Surely it will give protection against a no-rent campaign.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): If the Honourable Member wishes to yield, he must resume his seat.

Mr. B. V. Jadhav: Yes, Sir, I yield. Has the Honourable the Home Member got to say anything?

The Honourable Mr. H. G. Haig: I say, why does the Honourable Member suppose that this provision does not cover a no-rent campaign?

Mr. B. V. Jadhav: I think my reading of the sub-clause leads me to that conclusion:

"To encourage or incite any person to interfere with the administration of the law or with the maintenance of law and order,"—

of course, that refers to Government alone, and a landlord does not come in here at all,—

"or to commit any offence or to refuse or defer payment of any land-revenue, tax, rate, cess or other due or amount payable to Government". . .

The Honourable Mr. H. G. Haig: Then go on.

Mr. B. V. Jadhav:

"or to any local authority, or any rent of agricultural land."

So I take it that this sub-clause protects the Government revenue alone and the landlord does not come in. Government also own lands and when such lands are given on rent, it is rent and not land revenue. Land revenue is assessment; land revenue is one thing and rent is a different thing. When land belonging to Government is given to a tenant at twice or thrice the amount of the land revenue, the amount equal to the land revenue will be revenue, and the other portion will be rent paid to Government and not to any private individual.

Mr. K. Ahmed: Then what is the meaning of cess?

Mr. B. V. Jadhav: That is local revenue, municipal revenue. That is my reading of the sub-clause. I may be wrong.

The Honourable Sir Brojendra Mitter (Law Member): That is misreading.

Mr. B. V. Jadhav: Now, with regard to sub-clause (g), my remarks are almost the same as those that I made with regard to the other sub-clauses. "To induce a public servant", and so on, that is a clause about picketing, and I do not think that any provision is needed here, because the public will be sufficiently protected under the previous clauses and any article in a newspaper will not be of much use.

Then, Sir, with regard to (h), I have got a particular objection to it, because the fear entertained is sufficiently covered by section 153-A of the Indian Penal Code.

With regard to (i), I need not stress the point, because my remarks are almost the same.

Therefore, it will be seen that the provisions of this clause are not at all necessary. They are superfluous, and, as has been pointed out, the inclusion of these sections will only give a handle to the subordinate authorities to attach presses and to recover heavy fines or to ask for heavy deposits and to forfeit them. In this way the whole Press will be disorganised; it will be demoralised, and the clause will stand in the way of the right kind of political education of the people. Government may desire to suppress the Press altogether, but they should also realise at the same time that in these days it is not possible to gag the Press at all, and any such attempt at gagging the Press will simply rebound and perhaps it may injure Government the most. People ought to be properly educated through the Press and then alone discontent will subside. If this is stopped, then discontent may boil and burst the vessel. With these few words, I support the amendment.

Mr. P. Macqueen (Madras: Nominated Official): Sir, in rising to oppose this motion, I should like to make plain my own personal position with regard to Press legislation. As an Englishman, I dislike Press legislation very strongly, and I dislike section 16 of this Bill, but, at the same time, as a practical man, I realise that we are not living in a terrestrial paradise and we have very often to do things which we may dislike.

Now, in approaching the subject of these Press clauses, it appears to me that Honourable Members on the other side of the House have put forward two main arguments. The first is that there is no real necessity, on the facts of the case, to legislate at all, and the second is that even if there is necessity, the clauses of the Bill are excessive or abnormal and are unduly repressive, and I do not think that any Member on this side of the House has as yet taken up the challenge that was thrown out by my Honourable friend, Mr. S. C. Mitra, that there was a lack of evidence to justify any drastic action on the part of this House. Therefore, Sir, with the permission of the House, I should like to read a few extracts from vernacular newspapers that have been published in the Presidency from which I come, namely, the Madras Presidency, and perhaps the argument will be re-inforced when Honourable Members realise that the Madras Presidency always has been and is now much less touched by political agitation than probably other provinces in India, and if this sort of thing can be published with impunity in Madras, one can imagine what kind of material will be found in the papers published in other provinces. Now, the first extract that I should like to read to the House is an article that appeared in the *Krishna Patrika* of Masulipatam published on the 28th March, 1931. It is an instructive article, because it exhibits more than one kind of material which Government cannot possibly permit to appear in the public Press. It begins with a sort of vague general appeal to the religious passions of Hindus, and, towards the end of that article, it holds up to admiration those persons who were convicted and sentenced for murder in the Lahore trial.

Mr. B. Sitaramaraju: May I interrupt the Honourable Member and ask him whether that article was not written in Telugu? The Honourable Member is reading an English translation? Whose translation is that?

Mr. P. Macqueen: Yes, Sir; the extracts which I am going to read are translations which, as I have said, are from the vernacular papers.

Mr. B. Sitaramaraju: Translation made by Government, is it not?

Mr. P. Macqueen: Translation made by Government, certainly.

The article opens in this way:

"Darkness thickens before it is dawn. Where is the wonder that conditions are becoming more and more critical in the country? Believe that the chariot of the Sun-God is coming piercing through the veil of darkness. See how the flames from the funeral pyre that began blazing at the cremation ground on the banks of the Sutlej with streaks of blood have been enveloping the whole country like a huge conflagration! Are the seven lakhs of villages going to fall a prey to that world-destroying fire? Will this darkness accompanied by flames, like the Goodness Kali dancing on the body of Siva forgetting herself in the madness of her death-dance, devour that embodiment of peace, too?"

The reference in the last sentence is probably to Mahatma Gandhi.

Mr. B. V. Jadhav: May I interrupt the Honourable Member and ask him under what clause of the new Bill that will be punished?

Mr. P. Macqueen: I take it that that would be punishable under the Indian Penal Code.

Mr. S. C. Mitra: That is it.

Mr. B. V. Jadhav: Not under the provisions of this clause.

Mr. P. Macqueen: I am sorry I cannot answer that question off-hand. What is objectionable in this passage, apart from the application of the law, is the fact that it would inflame passions and is likely to arouse in the minds of the people, who read it, hatred and contempt towards the Government as established by law. Towards the end of the article we find this:

"Why should Lord Irwin cause the Lahore heroes to climb the gallows and plunge the country in such a state of fury without showing any mercy to them?"

Here persons convicted and sentenced to be hanged for murder are described as heroes! This is an infringement of the Press (Emergency Powers) Act, 1931,—sub-clause (b) of section 4 (1). Here is an article which appeared on the 11th January last in a newspaper called the *Satyagrahi* at Nellore. I will just read one or two sentences from this to give Honourable Members an idea of its general tenor:

"The demon of authority is now making its dance of death in our country in the most wonderful and horrid manner. . . Truth has no place. . . As for the authorities, they make no distinction between young or old, man or woman, literate or illiterate, and their business is to humiliate innocent people calling them foul names and beating them with lathis and to open fire on them and kill them."

What is likely to be the state of mind of people reading and believing such statements as this about the Government? I do not want to weary the House with too many of these extracts, but perhaps the next one would be of special interest, because it deals with a debate that was held in this Honourable House in the Simla Session:

"No civilised government....."

—This is from *Mathurbumi* of the 17th September, 1932—

"No civilised government will adopt a policy of cruel treatment towards persons after they are put in prison, however grave their offences might have been. But such moral principles will not affect our Government. . . Though Mr. Lahiri Chaudhury's adjournment motion in the Legislative Assembly in connection with this matter was finally withdrawn, it abundantly reveals the cruel mentality of the Government towards political prisoners."

Then, Sir, one of the activities which it is the intention of clause 16 to prevent is the incitement of persons to refuse payment of taxes. There has been recently the introduction of re-settlement in the districts of Kistna and Godavari in the Madras Presidency, and a newspaper, called *Ryot Patrika*, published an article on the 17th July, 1931, which finishes with these words:

"Ryots must take a vow to fight even unto death, unless the enhanced settlement rates are withdrawn. They must carry out the constructive programme laid down by the Congress, organise ryots' associations, acquire national spirit and strength and be prepared to try to withhold the payment of the enhanced rates imposed by the Government."

That comes under sub-clause (f) of clause 16. I do not think, in the short time at my disposal, I need read any further extracts. I should like to just touch upon one point, namely, the effect which such publications are likely to have on the people who read them. There seems to be a tendency to visualise the ordinary newspaper reading public as an honourable and cultured Member of this Assembly sitting up in bed in the Western Hostel, sipping his morning tea and languidly turning over the pages of the *Statesman*. That may be one part of the newspaper reading public, but we have to remember the semi-literate working men of our great towns or the almost entirely illiterate cultivators in villages, perhaps 20 or 30 miles away from the nearest railway station or telegraph office, who gather round the village *mantapam* in the evening and listen while the little Brahmin schoolmaster reads out extracts from a vernacular newspaper. Now, supposing they hear continual attacks upon Government, imputations of evil motives, incitements to refuse payment of taxes, and so on,—and they have, we know, an exaggerated reverence for the printed or written word,—what is likely to be the effect of having uncontradicted statements of that sort poured into their ears?

Now, Sir, my Honourable friend, Mr. Jadhav, made a slight excursion into the history of Press control in this country, and, if I understood him correctly, he said that somewhere about the eighties of the last century the policy of the Government was to keep the Press free from control, and today that policy has changed in the opposite direction. I entirely deny the accuracy of that statement of the history of Press control in this country. The fact is that from the year 1835, that is to say, for the best part of a century, the consistent policy of the Government has been to maintain the Indian Press as free from control as possible, but not once, nor twice, but three times, circumstances have compelled them to impose or re-impose executive control. The first occasion was, as Mr. Jadhav referred us to, in 1878, when the Vernacular Press Act was passed, and it was then repealed four years later. The second occasion was in 1908 and 1910 when the Indian Press Act was passed. Then, 10 years later, or 12 years later, Government again decided that they would remove the restrictions on the Press; that was in 1922. Unfortunately, the anticipations of the Press Laws Committee and the Government which accepted

[Mr. P. Macqueen.]

the recommendations of that Committee in 1922 have not been justified by subsequent events.

Now, Sir, some guidance can perhaps be had in considering the matter in all its aspects if we look at the Press laws of other countries. I have heard it said several times in this House that such and such an item of legislation is all very well for a self-governing country, but will not do for India, and I have heard the argument put round the other way. But what do other countries do in the matter of Press control? Practically every civilised country in the world possesses a detailed Press Law, but they vary in the extent of powers which are given to the executive. With the exception of England, every country of any importance in the world has a Press Law. In Italy, for example, a country in which—like India—the sentiment of national unity is recent and more than ordinarily self-conscious, the Press Law practically hands over the control of the Press to the Prefect of the province who is analogous to the Collector or Deputy Commissioner in an Indian district. Without his permission, no newspaper can start publication. He can issue a formal warning and, if this formal warning is ignored on more than two occasions, he can suppress the paper altogether. There is an appeal certainly. The appeal is to the Minister of the Interior. Or take the other great Asiatic countries. In China, the Press is subject to a rigid and unblushing censorship controlled by the police. What do they do in Japan? In Japan, every newspaper is bound to furnish security, whether it is a newly started publication or one of long standing and there is a censorship or executive control in all matters concerning Military, Naval and Foreign Affairs. I do not want to weary the House by quoting the kind of matter which is defined in these Press Laws as objectionable, but I can assure Honourable Members that if they care to look into books on this subject, they will find that it is extremely comprehensive and, by contrast with foreign definitions, our own definitions appear almost timid and meticulous.

Now, Sir, I shall not go into detail with regard to clause 16. I would just like to look at it from the broader point of view. Clause 16 contains seven sub-clauses and, at first sight, they may appear to be particularly drastic, but actually these clauses contain very little that is new. The old Press Act of 1910, which was repealed in 1922, contained six definitions in section 4 and these have been repeated with very little change in the present clause. There are other additions which come almost directly from the Indian Penal Code, well-known sections like 124A and 153A and all that is really new consists in three items, first the provision adding Airmen and Police to officers of the Army and Navy in the first sub-clause and then the provisions relating to interference with recruitment for the Police which appears in sub-clause (i) and which is more or less consequential on clauses 2 and 3 of the Bill and, thirdly, the provision with regard to the incitement to refuse payment of taxes. This last provision, Sir, does not seem to require very much special justification. Civilised States are based upon a triple foundation, first, the armed forces of the Crown, secondly, the Courts of law and, thirdly, and this is the essential condition of the other two, taxation and finance. The classical method of attempting to overthrow Government has so far been an attempt to debauch or destroy the Army and Navy or an attempt to paralyse the action of the Courts and it has remained for the protagonists of the civil disobedience movement to attempt by severing the fiduciary tap-root, to bring the tree of Government to the ground.

Sir, I have attempted to show by quotations and extracts from actual newspapers that there does exist an urgent necessity for some control of the Press and I have referred, briefly I hope, to the history of the Press control in this country and to the Press Law in certain foreign countries, to show that there is nothing in the provisions of clause 16 which is unduly oppressive or which is in any way abnormal. Sir, the liberty to print attacks on Government, to impute evil motives to Government, to incite to refusal to pay or to acts of violence—this liberty is not the true freedom of the Press and I would earnestly appeal to all Honourable Members, in considering this question, to set aside sentiment, not to approach it in the manner of cross-examining pleaders trying to demolish the opponent's case nor yet of hide bound doctrinaires, but to approach it as practical men who are faced with a problem that calls urgently for solution.

Raja Bahadur G. Krishnamachariar (Tanjore *cum* Trichinopoly; Non-Muhammadan Rural): Sir, at this time of the day, with a debate that has been dragging on for so many days, I shall try my best to finish as early as possible, so that the agony may be over. Clause 16 is so worded that if I want to I can go on speaking for hours and hours, but I shall take only two or three sub-clauses. Mr. Macqueen said that this was only a repetition of various Acts. I would invite the attention of the House to three sub-clauses and ask the Government to delete them and, if they do not agree, then to reject the entire clause. Now, sub-clause (d) says:

"to bring into hatred or contempt His Majesty or the Government established by law in British India or the administration of justice in British India or any class or section of His Majesty's subjects in British India or to excite disaffection towards His Majesty or the said Government."

Now, Sir, this clause has been the subject of judicial decision from the time when the late Mr. Tilak was prosecuted in Bombay for his alleged first act of sedition. This was one important clause that was the subject matter of discussion then. There were other clauses, but the most important is the one which I have read out. That clause is to bring into hatred or contempt the Government established by law in British India. Now, I should like to know when is a person supposed to do that. Supposing I do something which brings into hatred a policeman in the corner of the street. Is it bringing the Government established by law into contempt? I am not drawing on my imagination. This very point was put before Mr. Justice Strachey in the Bombay High Court seriously in the Tilak trial. Then the words in this clause (d) are:

"to excite disaffection towards His Majesty or the said Government."

Now, what is meant by "disaffection"? Is it absence of affection, or what? Where is it defined? When is a man supposed to have created disaffection? That, Sir, is the difficulty with which one is faced, but the difficulty is in no way lessened by the two *Explanations* that have been added to the clause:

"*Explanation 2.*—Comments expressing disapprobation of the measures of the Government with a view to obtain their alteration by lawful means without exciting or attempting to excite hatred, contempt or disaffection shall not be deemed to be of the nature described in clause (d) of this sub-section."

Now, the difficulty is this. A man disapproves of a measure and that man comments on it according to his temperament, strongly or in somewhat less strong and mild language, and once he does that, he comes very dangerously near the provision—that he creates or attempts to create hatred,

[Raja Bahadur G. Krishnamachariar.] contempt or disaffection. Because a man must create a sort of contempt as against the person whose acts he exposes as being against the fundamental principles of justice, else how on earth is he going to disapprove of the measure in a way that does not involve to a certain extent his crossing the border? Directly he does that, he is pounced upon by the criminal Courts and sentenced. Another *Explanation* to the same clause says:

"Comments expressing disapprobation of the administrative or other action of the Government without exciting hatred, contempt or disaffection. . ."

Now, that is a rather very important *Explanation*. But what that means, no one knows. Perhaps the Government know. Perhaps the Courts will say that when the man is prosecuted. Now, I am laying so much stress upon this, because the point is important.

Mr. Macqueen was referring to the re-settlement in certain districts of the Madras Presidency. There are certain irrigation projects also in the Madras Presidency and one of them is the Mettur project. Now, so far as this settlement of the Godavari and Kistna districts is concerned, there is a rather interesting episode which my friend, Mr. Macqueen, has not, I hope, forgotten and that is that the people did the very thing that this Act wants that they should not do, namely, they declined to pay the enhanced tax. The uproar was so great and so much trouble was apprehended that the Government appointed a committee, to go into the whole thing and the latter found that the people really could not afford to pay this enhanced rate. Now, if the people had not threatened the Government that they would not pay the enhanced rate, Government would never have come forward to reconsider the settlement, as the committee, in spite of the trouble they took in order to find out favourable facts from the evidence, if any, and in spite of the action of the settlement officer, was compelled to report that the people were not able to pay the enhanced rate. There is another episode and a more instructive one and one which I think gave the lead to this sub-section is the story of Bardoli. That is a long story. There is a book as thick as that in which is related the entire story, but I can sum up the history of it in three sentences. In this book, it was not printed by Government nor was it the authority of Government, there is a very instructive paper which shows that the gentleman who had been appointed settlement officer took into consideration everything that had been settled at the previous settlement and all the facts and considerations which had been urged in support of enhancing the settlement at that time. In enforcing the enhanced settlement rate, old women were turned out of their cottages, the people's buffaloes were attached, as also the very vessels used for cooking food. Then there was such a great trouble, and the non-co-operation in connection with the payment of taxes went so far that either from compulsion from the Government of India or on the initiative of the Local Government, a committee was appointed. That committee was presided over by an Englishman. Now, here the true spirit of the Englishman came out. The result was that a report, which cannot be more damaging than if it was written by one of the so-called Congress agitators, was produced. Every aspect of the action taken by the settlement officer was condemned, not by an agitator, not by Gandhiji, but by an English official—who, I believe, was occupying the position of a Commissioner of a Division. The point of my remarks is that all these things

would not have come into existence, if the people had not agitated and threatened that they would not pay this tax, these measures would not have been taken.

Sir, in the Tanjore district of the Madras Presidency, we are supposed to be going to be benefited by a huge project, called the Mettur project, which started with an estimate of two crores and, as usual, developed into seven crores and I should not be surprised if it would go up in the end to thirteen crores. I do not by the way know why these estimates always go up so high from their original figure. People always try to find out the reason, but fail. One reason put forward was that there being the depression in trade, the execution of the orders could not be secured in time. However, that is a minor point. The fact of the matter is that the settlement rule is, that for 30 years they cannot enhance the rates of assessment, once they fix the rate of assessment at the time of settlement. The rate is high enough, but that is another story, I won't trouble this House with it now. Sir, the settlement operations have bled the people practically white in connection with the land revenue and I feel very strongly upon it. However, we have got to pay, and we do pay. Now, meanwhile this Mettur project comes into existence. We were promised water in July, 1932. Now, July, 1932, has gone, but water has not come—that is also another story. (Laughter.) I cannot help telling you these stories. I am surrounded by stories created for the edification of this House by the Government themselves. (Laughter.) What can I do? They have now fixed extra assessment under cover of this cess or other. Sir, this assessment rate comes into existence, almost immediately and what is it that we are told? We would be compelled to pay, from next year, from the date of collection of the taxes from January, we will have to pay the enhanced revenue, although the original period of 30 years has not expired. There have been meetings held all over the Tanjore district and what shall we do except to say that we won't pay the extra rate? Government say—not of course in the regular way of declaring that the rate has been enhanced, but by a crooked way, but you have got to pay all the same, and which really comes to the same thing. Sir, the passing of this Bill would prevent us from stating that I would not pay this money. Now this is how the question of "incitement" comes. I am a large landholder and I preside over a meeting and I say, for instance, "I am not going to pay this sum". Now, everybody knows that I say that and so he also says he won't pay, and this is how the "incitement" comes in effect. If this clause had appeared as clause 1, I would have been able to give very many instances to show that this clause should be completely rejected. I will stop here for it is already time. Sir, I oppose this clause very strongly.

Sir Abdur Rahim (Calcutta and Suburbs: Muhammadan Urban): Sir, I just wish to say a few words regarding this clause 16. The most mischievous words in this clause are as anyone can see "which tend directly or indirectly to seduce, to bring into hatred, and to put any person in fear" and then a whole list of that sort is given. Now, I have had some experience of the difficulty which these words "tend directly or indirectly" can create and I defy anyone to say that it is possible for any Court to come to a proper conclusion as to whether a certain writing tends directly or indirectly to do a certain thing or not. Throughout the Indian Penal Code or any other Criminal Law which has not come into existence within

[Sir Abdur Rahim.]

the last few months or years, this phrase does not occur. It is the indefiniteness and the extremely comprehensive character of these words that give special point to the mischief which a clause like this is likely to create. Now, what will the Courts have before them? They will have certain writings of a newspaper. How can any Court come to any conclusion whether those writings do or do not tend directly or indirectly to produce a certain effect. The Court is habituated to construing words according to their ordinary meaning. Now, so far as the construction of ordinary words in their ordinary sense is concerned, that is undoubtedly the function of the Court and the Court has to discharge that duty every day. But when it comes to asking the Court to say whether certain words tend directly or indirectly to produce a certain effect or not, I say it is an impossible task to saddle the Court with. The Court, under those circumstances, must accept the judgment of the executive. It has no option at all. Sir, let us take an instance. Supposing a newspaper which is not favourably looked upon by the Executive Government happens to praise the conduct of a certain police force by saying that that force is extremely loyal to the Government, it is quite possible for a person to say that by suggesting that the Indian police force is loyal to the present Government, it indirectly reflects upon the character of that force. Is not that possible? That is the sort of danger which a law ought to guard against. On the other hand, if this is to be enacted into law, we are really giving power to the executive to say whether they approve of certain writings or not in the sense whether they tend directly or indirectly to produce a certain result. And then the Court is absolutely powerless to say: No, the executive authorities are wrong. You can produce a certain number of other writings of that newspaper, but how can other writings throw any light upon the writing in question. It is impossible, and if you ask any reader of a newspaper to say whether, in his opinion, it does not tend directly or indirectly to produce a certain result, then, if he is an honest man, it will be impossible for him to say whether it does or does not. Sir, by enacting a provision of this character, I submit, that the executive are not really forwarding the cause of justice or protecting the interests of law and order. It will be really holding out a threat to the entire Press of the country. If they happen to write unfavourably of certain measures of Government or of the conduct of the Government as a whole, then there is that sword hanging over their heads and they are liable to be penalised. That can be the only effect and, I submit, that this is not the way of controlling the activities of the Press and directing it in the right channels. You are simply paralysing the Press and if that is the policy, the Government are perfectly entitled to enact a measure of this sort. But if the policy be to prevent the propagation of certain ideas which lead really to incitement of certain classes of crime, then that policy cannot be achieved by a measure of this kind. If the Government really think that the Press in this country is so outrageous and it does so much harm to the country that it must be muzzled or controlled in the way they like, then the only remedy from their point of view is to establish censorship. Censorship would be indeed better, because before a writing goes to the public it will be criticised by Government who will go through it beforehand. Government officials will then say how much of it is objectionable and how much is not. But how can a newspaper foresee whether a certain article will be liked by Government or not. It will be impossible for any man to foresee that. Besides it is not the

responsible editor of the newspaper that writes everything in a newspaper. There are so many correspondents who contribute articles to it. It will be impossible for any newspaper editor to carry out his duties honestly if we have a clause like this and it will lead to any number of prosecutions if the Government so chose. It will also prevent all frank and honest criticism of the actions of Government. I doubt if the Government think that we ought to have as little criticism of public measures as possible. If that is not their object, then I submit very respectfully to the Government and to the House that they ought not to put on the Statute-book a law of this indefinite and dangerous character. I use the word "dangerous" advisedly, because it has a tendency to suppress the entire liberty of the Press and I do say that in the circumstances of any civilised country at the present day it is not a desirable thing to achieve.

Mr. H. P. Mody (Bombay Millowners' Association: Indian Commerce):

Sir, I will address myself very briefly to the general aspect of this question. My Honourable friend, Mr. Macqueen, who just spoke and to whom I have listened with great pleasure told us about the control which exists in various countries over the activities of the Press. I agree with a great deal of what he said in that connection, but I must draw two distinctions which he has apparently ignored. In the first place, the profession of journalism in this country is harder, more unremunerative and dangerous than probably anywhere else. In the second place, the safeguards which exist in other countries which prevent the straining of the law and miscarriage of justice do not exist to the same extent in this country. Therefore, it would be idle to draw any analogies from the control which is exercised over the Press in other parts of the world.

Sir, so far as the Press in India is concerned, everybody recognises that there is a certain section which indulges in a license which ought never to be permitted. But if I have to choose between permitting a little license to an unbridled section of the Press and the total elimination of all expression of honest opinion, then I would certainly plump for the former. It is idle to say that penal laws affect only the guilty, and that the honest man, the man who pursues his profession in a straightforward way has nothing to fear. I say, it would be idle to pretend that in view of the fact that in the past few years many innocent persons have been drawn into the net along with the guilty. After all, the most effective way of controlling the license of the Press is not by imposing more and more rigid restrictions. You can do it up to a point, but you cannot carry it to the point of practically extinguishing all honest expression of opinion. Why do not Government organise their publicity department in a more rational and better way? The sort of publicity which Government give to their acts and policies would not impress even a fourth form schoolboy. Let Government, if they want that a gullible public should not be misled by the vapourings of the irresponsible section of the Press, put a couple of live journalists in charge of the publicity department both at headquarters and in every provincial Government. As a matter of fact, when one contemplates the all-embracing comprehensiveness of the activity of Government in this country, activities which range over the whole of our acts and omissions, one is appalled at the inadequacy and inefficiency of the publicity which Government give to their actions and their policies even in matters of the most vital importance. Take the Ottawa Pact, the most

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recent example. Government leave the public to form its own judgment on insufficient materials, and you cannot find fault with the public if it forms its judgment by what it sees in the papers. If I repeat, Government have only to depend on more and more rigid control of the Press in order to suppress the mischievous activities of a section, it would be a dangerous and a one-sided policy which will neither pay them nor will it be effective. The only cure is the growing healthiness of public opinion, and in many directions those healthy influences are at work. Our provincial Legislatures are in Session for many months of the year. The officers of Government have various opportunities of meeting people and explaining to them the exact import of various Government policies; and in several other directions the public has got sources of education and information which were denied to us in the past. These forces being at work, it is, I think, an absolutely retrograde step to think of imposing the sort of drastic control which this clause proposes to introduce. It is all very well to say that you are aiming at the guilty, but the honest journalist has a right to be allowed to pursue his avocation fearlessly, and I want to know if, with such all-embracing provisions, the honest journalist can ply his profession without constant fear of the law. I, therefore, feel that while up to a point control of the Press is essential, and that it is a recognised form of Government activity in all civilised countries, you cannot go beyond certain recognised limits, and if Government find that control of the Press has proved ineffective, there are other ways in which they can make it effective than by continually tightening up the reins of the law and punishing both the innocent and the guilty.

Mr. Amar Nath Dutt (Burdwan Division: Non-Muhammadan Rural):

Sir, I also support the amendment for deletion of this clause. The clause seeks to add more than half a dozen sub-clauses to section 4 of Act 23 of 1931. Sir, I think the power which we gave to Government by the Act of 1931 was more than what was necessary, but after having that power they want to have more powers. There is a proverb in Bengali which says that the more you feed a boy the more he wants. So is the case here with Government. In spite of our objection and in spite of our protests, they had the Act of 1931 passed in this House which was against the freedom of the Press. Now, seeing that they have got certain powers, they want to add to those powers. With respect to this, I think the legal aspect of the difficulty of administering the law, as worded here, has been given out by one whose authority here about the difficulties of administering the law will not be challenged by anybody,—namely, the *ex-Chief Justice* of the Madras High Court who had to administer the law as it stood. I will not waste the time of the House by dilating on these points, but what I want to submit is that in their own interest they ought not to try to have such powers as these; and I can do no better than quote the words of a great statesman with respect to the Press Law in India which will convince them at once that what they are attempting to do now is not to their own interests. This is what Mr. Gladstone said in the House of Commons with regard to the views of the Duke of Buckingham, a former Governor of Madras:

"He thinks that by this fidgetty attempt to bolster up power by a law of an arbitrary character, the Government of India were not gaining strength, but were bringing upon themselves weakness."

These words would apply with greater force at the present moment to the action of Government in trying to muzzle the Press, the fourth estate. Then again certain allegations have been made against the Vernacular Press of the country. With respect to that, Sir, we must admit that the Press has become far better than what it was in those days, and the language in which Mr. Gladstone characterised the Vernacular Press of those times will bear repetition here. He says:

"In many cases it might be . . . folly and levity of the things written, but in which indications might be found of intelligence and right-mindedness. I hold the Vernacular Press to be a useful indication of the under-currents which may be running through the mass of Indian population. But if any serious spirit of disaffection or hostility is increasing among the people, indications will float to the surface among the Vernacular papers as surely as the dross is thrown to the surface of molten metal. Systematic attempts to excite hostility or sedition I would prosecute"—that is what the Duke of Buckingham says—"but for this the present law provides in the Penal Code and to my mind sufficiently; and in an emergency, should any such arise, there is the same power of the State to restrain a man who writes as a man who speaks it."

That being so, I submit that to deal with all these offences there are ample powers if you want them save and except powers which should not be vested in the executive such as "to encourage or incite any person to interfere with the administration of the law". We do not know what is meant by administration of law in this country. Even lathi charges and destroying properties and temples also are considered probably part of the administration of law. That being so, I submit, the clause is so wide that we should not allow it to be inserted in an already too much rigorous law which is being attempted to be enacted. With these words, I support the deletion of the clause.

The Honourable Mr. H. G. Haig: Sir, we have heard a varied attack on the provisions of this clause and the principle of it. Now I should like to address myself in the first place to the question of why these powers are necessary and the answer is very simple: the proved ineffectiveness of the existing law. Under the existing law—and by existing law I do not refer to the powers we have taken by the Ordinances, but to the ordinary law—a paper can only be proceeded against by a prosecution of the editor and the publisher. For many years the Government, who take no pleasure in exercising this control over the Press, endeavoured to deal with the Press by a system of instituting prosecutions in the most extreme and outrageous cases, but that system demonstrably broke down in the years during which this agitation which culminated in the civil disobedience movement was gathering strength. There are two main reasons why the ordinary law was ineffective. In the first place, prosecution for sedition is a very elaborate proceeding as Honourable Members well know. It takes a long time; it involves considerable expenditure, and all that time there is nothing to prevent the newspaper going on day after day producing articles of a similar character. In the second place, when a conviction is obtained, in very many cases it is obtained against a man of straw. A newspaper which deliberately sets itself the task of stirring up hatred and contempt against the Government frequently and in some provinces almost invariably provides itself with a dummy or jail editor. A man is paid a small sum of money and is made to pose as the editor for the purposes of going to jail when a conviction is obtained, and the man who is really inspiring the policy of the paper and writing the articles sits safely in the background. By those methods

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one cannot really control a press which is determined to pursue a policy of stirring up hatred and contempt against the Government. Under different conditions these powers for which we now ask may not be required. I hope and trust that after some years they will not be required. If this country will settle down to a new constitution and work it in a constitutional way, these powers will not be required. But, at the present moment, in the conditions through which we are going, they are most essentially needed.

Now, we have heard in the very admirable maiden speech of Mr. Macqueen, on which I should like to congratulate him—we have heard a practical story of how these charges against the Government, these false rumours, affect people, the impression that they create in the villages and among the less educated population. My Honourable friend, Mr. Mody, attacked us vigorously for not meeting these charges, these false rumours, by the issue of communiqués. I am accustomed to hearing attacks on our publicity department. Everybody is ready with their criticisms, with their suggestions, except those who have to deal with the problem in a practical way and they realise the difficulties. In the first place, it is difficult to get into a deliberately hostile Press the point of view of the Government. It is an exceedingly difficult task. The House must remember that we are not dealing with what one might call an impartial Press, as one sees it perhaps in a country like England, where you have one side and the other side, and there is not the slightest difficulty in getting into the Press effective representation of any reasonable view. But when the great bulk of the Press is ranged—as we must admit it is ranged—against the Government it is very difficult to get effective publicity for the Government point of view; and, in the second place, surely it is a commonplace that it is exceedingly difficult to overtake a lie. Government can publish a contradiction in a communiqué, but the mischief is already done by the original false statement or insinuation

Mr. H. P. Mody: Why are you not first in the field?

The Honourable Mr. H. G. Haig: Because it is quite impossible for us to anticipate the various misrepresentations of our action that a very fertile Press pours out. We are not afraid of the truth; we are not afraid of honest criticism; the Government of India and all the Local Governments are by this time very fairly inured to criticism; but we are afraid of falsehoods, we are afraid of dishonest and malicious criticism; for in this country it does an infinity of harm. I do not think that the Press need be seriously alarmed; that is to say, the honest and well conducted Press, and I do not suggest for a moment that there are not a large number of admirably conducted newspapers in this country.

My Honourable friend, the Leader of the Independent Party, accused us of drafting this clause in very wide terms and referred in particular to the words "directly or indirectly". I think in the Select Committee we did a good deal to meet that criticism. It is no doubt true that if the words stand entirely unmodified, "directly or indirectly bring into

hatred or contempt" (which is perhaps the most important of the sub-clause), they may be difficult to interpret. But realising the force of that criticism, we inserted certain *Explanations*, and those *Explanations* make it quite clear that certain comments do not in fact come within the terms of sub-clause (d). Those are *Explanations* which are taken from the existing law of sedition and will not, I think, as my friend, Raja Bahadur Krishnamachariar, suggested, present insoluble problems to the High Courts, for they have in fact formed the subject of numerous and elaborate rulings already.

It has also been said that by enacting this clause we shall be sitting on the safety valve. That is the last thing we want to do, and if the passing of this clause really closed the safety valve, I should not be proposing it. We are doing what we really consider necessary in order to check most dangerous incitements to violence, revolution, disobedience of the law and all kinds of feeling of hatred and contempt of the Government. But, Sir, that is not or should not be the normal material that is put forth by the Press. There is nothing to prevent the Press expressing their views frankly and vigorously, as they do at present, on all the main topics of the day, on the constitutional issues, on the untouchability question, on the failures of the Government, on the proceedings of this House, on the release of Mr. Gandhi, and many other such topics. We have the advantage of the views of the Press on all matters that really concern the country. Therefore, I submit that we are very far from sitting on the safety valve. The safety valve is working in full blast, shall I say.

Well, Sir, I do not think I need add much more. My Honourable friend, the Leader of the Independent Party, disliking our provisions suggested that he would prefer a censorship. I do not believe, however much editors of the newspaper press of India may dislike the provisions of this Bill, I do not think they would ask for a censorship. If they are in any doubt as to whether particular matters might come within the provisions of this clause, it is always open to them to seek advice and they will always receive it. But, Sir, that is coming rather near a censorship, and for that very reason my information is that they do not often seek that advice. Therefore, I suggest that the alternative suggestion of my Honourable friend, Sir Abdur Rahim, would not be welcomed by the editors of the Indian Press.

My friend, Raja Bahadur Krishnamachariar, took special exception to sub-clause (f), in that it prohibited the preaching of a no-rent or no-revenue campaign, and he cited the case of Bardoli. Well, Sir, the Bardoli question was one of great controversy and complication, and I do not myself accept his account of it as giving a complete narrative or explanation of what happened. But, Sir, I would ask him to reflect on the moral of Bardoli. The cultivators in Bardoli, after conducting an agitation which, I admit, did go beyond constitutional limits and did include refusal to pay revenue, eventually convinced the Government that there were grounds for modifying their assessment. And what happened after that? The cultivators, I am afraid, misunderstood the position of Government, and thought that they had obtained this concession not by convincing the Government that their case was a good one, but by threatening the Government and by adopting a policy of refusing to pay their revenue; and the result was that two or three years later, for no

[Mr. H. G. Haig.]

reason at all, they tried once more to refuse to pay their land revenue and thought once more by following these same means they would secure the same results. And did they secure the same results, or did they secure for themselves extreme suffering, useless suffering, and, in the end, utter failure? No, Sir, we cannot accept as a legitimate method of agitation organized refusal to pay Government dues. I do not think, Sir, it is necessary to add anything more. I oppose the amendment.

Sir Abdur Rahim: May I say one word?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Is it a personal explanation?

Sir Abdur Rahim: Yes, Sir. I never suggested for one moment that the Government should institute censorship. I should be the last person to make a suggestion of that character. I said all that in order to show how far this Bill went, that it would be much better to go further and have censorship if they wanted to suppress the liberty of the Press.

The Honourable Mr. H. G. Haig: I am sorry I misunderstood the Honourable Member. It was merely his method of expressing his extreme repugnance to this Bill.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question I have to put is:

"That clause 16 of the Bill be omitted."

The Assembly divided:

AYES—38.

Abdul Matin Chaudhury, Mr.
Abdur Rahim, Sir.
Azhar Ali, Mr. Muhammad.
Badi-uz-Zaman, Maulvi.
Bhuput Singh, Mr.
Chandi Mal Gola, Bhagat.
Chetty, Mr. R. K. Shanmukham.
Chinoy, Mr. Rahimtoola M.
Dutt, Mr. Amar Nath.
Gour, Sir Hari Singh.
Gunjal, Mr. N. R.
Jadhav, Mr. B. V.
Jha, Pandit Ram Krishna.
Jog, Mr. S. G.
Krishnamachariar, Raja Bahadur G.
Lalchand Navalrai, Mr.
Maswood Ahmad, Mr. M.
Mitra, Mr. B. N.
Mitra, Mr. S. C.

Mody, Mr. H. P.
Nihal Singh, Sardar.
Pandian, Mr. B. Rajaram.
Parma Nand, Bhai.
Patil, Rao Bahadur B. L.
Ranga Iyer, Mr. C. S.
Reddi, Mr. P. G.
Reddi, Mr. T. N. Ramakrishna.
Roy, Rai Bahadur Sukhraj.
Sant Singh, Sardar.
Sarda, Diwan Bahadur Harbilas.
Sen, Mr. S. C.
Sen, Pandit Satyendra Nath.
Singh, Kumar Gupteshwar Prasad.
Singh, Mr. Gaya Prasad.
Sitaramaraju, Mr. B.
Thampan, Mr. K. P.
Uppi Saheb Bahadur, Mr.
Ziauddin Ahmad, Dr.

NOES—55.

Abdul Hye, Khan Bahadur Abul
Hasnat Muhammad.
Acott, Mr. A. S. V.
Ahmad Nawaz Khan, Major Nawab.
Allah Baksh Khan Tiwana, Khan
Bahadur Malik.
Amir Hussain, Khan Bahadur Saiyid.
Anklessaria, Mr. N. N.
Anwar-ul-Azim, Mr. Muhammad.
Bajpai, Mr. G. S.
Bhore, The Honourable Sir Joseph.
Bower, Mr. E. H. M.
Burt, Mr. B. C.
Dalal, Dr. R. D.
DeSouza, Dr. F. X.
Dudhoria, Mr. Nabakumar Sing.
Dunn, Mr. C. W.
Dutt, Mr. G. S.
Fazal Haq Piracha, Shaikh.
Fox, Mr. H. B.
Graham, Sir Lancelot.
Greenfield, Mr. H. C.
Gwynne, Mr. C. W.
Haig, The Honourable Mr. H. G.
Hezlett, Mr. J.
Hudson, Sir Leslie.
Ibrahim Ali Khan, Lt. Nawab
Muhammad.
Ishwarsingji, Nawab Naharsingji.
Ismail Khan, Haji Chaudhury
Muhammad.
James, Mr. F. E.

Jawahar Singh, Sardar Bahadur
Sardar.
Lal Chand, Hony. Captain Rao
Bahadur Chaudhri.
Mackenzie, Mr. R. T. H.
Macqueen, Mr. P.
Meek, Dr. D. B.
Metcalf, Mr. H. A. F.
Mitter, The Honourable Sir
Brojendra.
Moore, Mr. Arthur.
Morgan, Mr. G.
Mukherjee, Rai Bahadur S. C.
Nayudu, Rao Bahadur B. V. Sri Hari
Rao.
Rafuddin Ahmad, Khan Bahadur
Maulvi.
Rajah, Rao Bahadur M. C.
Rau, Mr. P. R.
Ryan, Mr. T.
Sarma, Mr. R. S.
Schuster, The Honourable Sir George.
Scott, Mr. J. Ramsay.
Sher Muhammad Khan Gakhar,
Captain.
Singh, Mr. Pradyumna Prashad.
Smith, Mr. R.
Sorley, Mr. H. T.
Suhrawardy, Sir Abdulla-al-Māmūn.
Tottenham, Mr. G. R. F.
Yakub, Sir Muhammad.
Yamin Khan, Mr. Muhammad.
Zulfiqar Ali Khan, Sir.

The motion was negatived.

Mr. R. S. Sarma (Nominated Non-Official): Sir, I move:

"That after *Explanation 4* to clause 16 of the Bill, the following Proviso be inserted:

'Provided that no action be taken against any newspaper without at least two consecutive warnings being given and disregarded'."

I do not think any speech is necessary to commend my amendment to the acceptance of the House. If any newspaper publishes 4 P.M. indecent or objectionable matter, it is only due to it to give it one or two warnings to restrain it from publishing it and then to take action if the warnings are disregarded. Sir, I move.

Mr. S. C. Mitra: I support the amendment of my friend, Mr. Sarma. It is a very reasonable amendment. Being long in the journalistic line, Mr. Sarma has tabled it and as he is a Nominated Member, Government may be inclined to accept it. It is very difficult for the journalist to know what Government are taking exception to. In his last speech, the Honourable the Home Member said that in the provinces where there were officers charged with the duty of censoring, if they were consulted they were always agreeable to give opinion. I know personally that that is not a fact in Bengal. Some of the journalists and Press agencies complained to us that when they receive news from the mufassil they want to consult the Deputy Secretary to the Political Department as to what things are objectionable and, not infrequently, the gentleman in

[Mr. S. C. Mitra.]

charge refuses to make himself responsible by giving any opinion. When there is a European officer, he is free in giving advice but when it is the lot of an Indian I. C. S. officer, he is probably afraid of the C. I. D. and he refuses to say whether it will be considered objectionable or not by the Government. I shall be very glad if the Honourable the Home Member gives an assurance in this House that it will be binding on the officers in the provinces who are charged with this function to say definitely what they consider objectionable. That will help a good deal; but in any case the amendment of Mr. Sarma is very reasonable. Before forfeiture or any drastic step is taken, the editors should be warned. It is known that editors are not generally the proprietors. The provision in this clause is so drastic that it is the proprietor or the joint stock company of shareholders that suffer. They should get a chance before Government take action under this law. So I support this amendment.

Mr. N. R. Gunjal (Bombay Central Division: Non-Muhammadan Rural): (Speaking in the Vernacular, the Honourable Member supported the amendment.)

The Honourable Mr. H. G. Haig: Sir, the normal practice in the administration of these Press provisions, I think I am correct in saying, is that warnings are given to newspapers before action is taken against them. But, Sir, I cannot agree to a Statutory provision that there should be one or more warnings before any action can be taken. The warning in the majority of cases may be useful and effective, but there are certain cases where the offence is deliberate and is known to be deliberate, where the warning would be entirely thrown away, and it is necessary in my opinion that the discretion of the executive should be retained to give warning in suitable cases, but in other cases to proceed to take action at once if the circumstances appear to warrant it.

Now, Sir, we have had some difference of opinion between two Honourable Members from Bengal as to what actually happens in that province. My Honourable friend, Mr. Mitra, said that though there was an officer whose duty it was to keep in touch with the Press, he was reluctant to give advice when asked for it. On the other hand, as far as I understood him, Mr. Sen, earlier in the debate, made it a matter of complaint that editors in Bengal were continually receiving warnings from, apparently, the same officer. I must leave it to the two Honourable Members to reconcile their statements.

Mr. S. C. Mitra: We are ready to reconcile it. It is not contradictory.

The Honourable Mr. H. G. Haig: When the Press Ordinance was introduced in 1930, I was present at a conference which Lord Irwin held with several well-known editors of Indian newspapers, and the difficulties that might arise in the administration of the Press Ordinance were fully discussed at that time. As a result of that discussion, we addressed a letter to Local Governments asking them to observe due care in the administration of the Ordinance. If it is any satisfaction to Honourable Members I should be glad to call the attention of Local Governments again, when this Act is passed, to the suggestions we made to them in 1930.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That after *Explanation 4* to clause 16 of the Bill, the following Proviso be inserted:

"Provided that no action be taken against any newspaper without at least two consecutive warnings being given and disregarded."

The Assembly divided:

AYES—33.

Abdul Matin Chaudhury, Mr.
Abdur Rahim, Sir.
Anklesaria, Mr. N. N.
Azhar Ali, Mr. Muhammad.
Badi-uz-Zaman, Maulvi.
Bhuput Singh, Mr.
Chandi Mal Gola, Bhagat.
Dutt, Mr. Amar Nath.
Gour, Sir Hari Singh.
Gunjal, Mr. N. R.
Ismail Khan, Haji Chaudhury
Muhammad.
Jadhav, Mr. B. V.
Jog, Mr. S. G.
Krishnamachariar, Raja Bahadur G.
Mishra, Mr. B. N.
Mitra, Mr. S. C.

Nihal Singh, Sardar.
Pandian, Mr. B. Rajaram.
Parma Nand, Bhai.
Patil, Rao Bahadur B. L.
Ranga Iyer, Mr. C. S.
Reddi, Mr. P. G.
Reddi, Mr. T. N. Ramakrishna.
Sant Singh, Sardar.
Sarda, Diwan Bahadur Harbilas.
Sarma, Mr. R. S.
Sen, Mr. S. C.
Sen, Pandit Satyendra Nath.
Singh, Mr. Gaya Prasad.
Sitaramaraju, Mr. B.
Suhrawardy, Sir Abdulla-al-Māmūn.
Thampan, Mr. K. P.
Uppi Saheb Bahadur, Mr.

NOES—50.

Abdul Hye, Khan Bahadur Abul
Hasant Muhammad.
Acott, Mr. A. S. V.
Ahmad Nawaz Khan, Major Nawab.
Ahmed, Mr. K.
Allah Baksh Khan Tiwana, Khan
Bahadur Malik.
Amir Hussain, Khan Bahadur Saiyid.
Anwar-ul-Azim, Mr. Muhammad.
Bajpai, Mr. G. S.
Bhore, The Honourable Sir Joseph.
Bower, Mr. E. H. M.
Burt, Mr. B. C.
Dalal, Dr. R. D.
DeSouza, Dr. F. X.
Dudhoris, Mr. Nabakumar Sing.
Dunn, Mr. C. W.
Dutt, Mr. G. S.
Fox, Mr. H. B.
Graham, Sir Lancelot.
Greenfield, Mr. H. C.
Gwynne, Mr. C. W.
Haig, The Honourable Mr. H. G.
Hezlett, Mr. J.
Hudson, Sir Leslie.
James, Mr. F. E.
Jawahar Singh, Sardar Bahadur
Sardar.
Lal Chand, Hony. Captain Rao
Bahadur Chaudhri.

Mackenzie, Mr. R. T. H.
Macqueen, Mr. P.
Maswood Ahmad, Mr. M.
Meek, Dr. D. B.
Metcalfe, Mr. H. A. F.
Mitter, The Honourable Sir
Brojendra.
Moore, Mr. Arthur.
Morgan, Mr. G.
Mukherjee, Rai Bahadur S. C.
Nayudu, Rao Bahadur B. V. Sri Hari
Rao.
Rafiquddin Ahmad, Khan Bahadur
Maulvi.
Rajah, Rao Bahadur M. C.
Rastogi, Mr. Badri Lal.
Rau, Mr. P. R.
Ryan, Mr. T.
Schuster, The Honourable Sir George.
Scott, Mr. J. Ramsay.
Sher Muhammad Khan Gakhar,
Captain.
Singh, Mr. Pradyumna Prashad.
Smith, Mr. R.
Sorley, Mr. H. T.
Tottenham, Mr. G. R. F.
Yamin Khan, Mr. Muhammad.
Zulfiqar Ali Khan, Sir.

The motion was negatived.

Clause 16 was added to the Bill.

Clauses 17 to 20 were added to the Bill.

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): Sir, I move:

"That after clause 20 of the Bill, the following new clause be added:

"21. That all the convictions made and sentences passed under this Act shall be subject to appeal to the Court to which appeals ordinarily lie and shall be open to revision by the High Court."

Sir, we have come to the fag end of these amendments and it must be a gratification to the Honourable the Home Member that he will soon stand congratulated that by his tenacity, I won't say obstinacy, he has shown that he has succeeded in all the amendments being rejected except perhaps the one with regard to the sentence in one case having been maintained to three months. Sir, I must confess that in putting forward this amendment, my main reason is to get certain doubts removed in connection with the right of appeal and right of revision with regard to the offences and the orders that are incorporated in this Bill. Sir, it is quite plain that the Bill, as it stands, does not provide for any appeals against the convictions and the sentences which are governed by the clauses of this Bill commencing from clause 2 to clause 8, and also it is quite plain with regard to the orders to be passed under this Bill which are covered by clause 13, that no right of appeal or of revision has been provided by this Bill. Sir, I am conscious of this and it will be a question for the Honourable the Law Member to answer in clear and definite terms whether, under the Criminal Procedure Code, or under any other law, there is a right of an appeal and a right of revision with regard to these offences and orders contained in this Bill. Sir, it is known to the House that, in the beginning, the original Bill intended that these offences should be incorporated and made part of the Penal Code. Of course, if they had been made part of the Penal Code, I do not think any difficulty would have arisen or there would have been any doubt with regard to the appeal against such orders and there would have been power of appeal under the Criminal Procedure Code. But it was not the will or the wish of this House that such drastic measures, which are of a temporary nature, should be put on a permanent Statute-book like the Indian Penal Code. Therefore, it was wise on the part of the Select Committee to have made this a separate Bill for consideration. But it should be made clear that on account of these clauses being incorporated in this Bill, the right of appeal and the right of revision do not go away. I said that it was mainly with a view to removing those doubts that I had moved this amendment and it would very much depend upon the reply that I get from the Honourable the Law Member whether I should withdraw my amendment or let it remain as it was.

Sir, it will be seen that clauses 2 to 8 provide convictions and punishment. Now, with regard to clause 8, while it was being debated yesterday, a question arose whether an appeal would lie under clause 8, and the reply given by the Honourable the Law Member was that it would lie. But I would like the Honourable the Law Member to say with regard to clauses 2 to 7 whether they also are similarly appealable. Also I would like to know whether they are such as could be revised by the High Court either under section 107 of the Government of India Act or section 439 of the Criminal Procedure Code. Sir, I myself am conscious of a provision in the Criminal Procedure Code which is contained in section 408 and which reads thus:

"Any person convicted on a trial held by an Assistant Sessions Judge, a District Magistrate or other Magistrate of the first class or any person sentenced under section

439 or in respect of whom an order has been made or sentence has been passed under section 318 by a Magistrate of the first class may appeal in the Court of Session."

Now, according to this section it is quite plain that an appeal would lie, because, in these clauses, you will find that there will be a trial made before a First Class Magistrate, who, after the trial has gone on in its usual way, will come to a decision. Then, according to this section, unless it is restricted by any other section, an appeal would lie. Now, in section 404 of the Criminal Procedure Code, it is said:

"No appeal shall lie from any judgment or order of a criminal Court except as provided for by this Code or by any other law for the time being in force."

Unless it is said that section 408 applies, the appeal would not lie. Therefore, there is some doubt about it and it is because of that doubt that I wish to make it quite clear and plain for laymen if not for lawyers and I would like to have a definite statement from the Honourable the Law Member.

Now, with regard to the revision. Section 439 of the Criminal Procedure Code allows the High Court as a Court of revision to send for the proceedings and pass orders as if it were a Court of appeal. In my humble opinion, all sections to which I have referred would allow the High Court to call for the records of these proceedings and to pass orders. Sir, the word "proceeding" is a very wide word and the powers of the High Court are wide enough. There is also section 107 of the Government of India Act which allows the High Court to exercise its powers of superintendence. Now, Sir, this much with regard to the sections to which I have referred. But, as I have also put in another amendment with regard to the orders, I would request the Honourable the Law Member to answer points covered by that amendment also, because it will relieve me from moving it separately. Now, these orders come under sections 11, 12 and 13. One can see that an order under section 11 is to be made by the Governor General in Council. "If he is satisfied to the like effect, he may, by notification, declare an association to be an unlawful association." Similarly, in clause 13 also, "The Local Government may, by notification in the local official Gazette, notify any place which, in its opinion, is used for the purpose of an unlawful association". Now, these two are no doubt executive orders. Coming to clause 2 of sub-section 17A, we find that the order has to be made by the District Magistrate or, in a Presidency-town, by the Commissioner of Police or any officer authorised in this behalf. This clause refers to taking possession of the notified place and evicting therefrom any person found therein. Then, Sir, there is clause 17B where also the District Magistrate makes an order taking possession of a notified place and also of moveable property found therein. Now, these are orders of Magistrates which, according to my humble submission, should be either appealable or subject to revision.

It might be contended that there is some remedy allowed with regard to orders made under section 17B when possession of moveable property has been taken and forfeiture has been made. It is only after the forfeiture has been made that a remedy has been provided that that man can apply to the District Judge to give his own decision thereon, but it is provided that the order of the District Judge shall be final. It is, therefore, necessary to provide that such an order should be liable to an appeal. With regard to that order, there also should be a power of revision, because, if there is an appeal under the Criminal Procedure Code,

[Mr. Lalchand Navalrai.]

there is also the further power under section 489 of the Criminal Procedure Code. Such orders as to forfeiture, etc., should not remain final so far as not to even allow the powers of superintendence of the High Court. These powers are given under section 107 of the Government of India Act. Therefore, I submit that this should be open to appeal as well as revision. To make such drastic laws and not to provide for appeals or revision is extremely unnatural. Therefore, without taking any more time, I should like to hear what the Honourable the Law Member's opinion is with regard to this.

The Honourable Sir Brojendra Mitter: Sir, I hope I shall be able to remove the doubts of my Honourable friend, Mr. Navalrai, and that after hearing me he will see his way to withdraw the amendment. I draw the attention of the House to sub-clause (1) of clause 9 of the Bill, which says that no Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this Act. Therefore, whenever any prosecution is started, it must be started in the Court of a Presidency Magistrate or a Magistrate of the first class. The Presidency Magistrate and Magistrate of the first class are creatures of the Criminal Procedure Code; and you have to look to the Criminal Procedure Code for their powers and for the ultimate destination of the orders that they make. Section 408 provides that any person convicted on a trial held by a Magistrate of the first class may appeal to the Court of Session. Here then is the right of appeal from a conviction made by a Magistrate of the first class. Then, section 411 says that any person, convicted on a trial held by a Presidency Magistrate, may appeal to the High Court.

Mr. K. Ahmed: Only when the conviction is for more than six months and the fine exceeds Rs. 200.

The Honourable Sir Brojendra Mitter: Yes, when the conviction exceeds six months and the fine exceeds two hundred rupees. In these cases an appeal lies to the High Court. What about other cases, that is to say, cases in which the Presidency Magistrate sentences a person to imprisonment for a term less than six months or to a fine less than Rs. 200? In such a case there would be no appeal to the High Court, but there come in the powers of the Court under sections 435 and 439 apart from the powers under section 107 of the Government of India Act. Section 435 says that the High Court or any Sessions Judge or District Magistrate or any sub-divisional Magistrate, empowered by the Local Government in this behalf, may call for and examine the record of any proceeding before any inferior criminal Court situate within the local limits of its or his jurisdiction for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order. Therefore under this section a revision would lie from the order of a Presidency Magistrate or from the order of a Magistrate of the first class. Where there is no appeal, then the Sessions Judge or District Magistrate may revise. The powers under section 435 cover a number of cases. Then we come to section 439 which is the High Court's power over all Courts. That says that in the case of any proceeding the record of which has been called for by itself or which has been reported for orders or which otherwise comes to its knowledge, the

High Court may in its discretion exercise the powers conferred on a Court of appeal. All these powers come into play, because the trial will have to be held by a Magistrate under the Criminal Procedure Code, that is, a Presidency Magistrate or a Magistrate of the first class. Sir, I hope that will satisfy my Honourable friend, Mr. Lalchand Navalrai.

Mr. Lalchand Navalrai: Only about sentences and convictions.

The Honourable Sir Brojendra Mitter: Yes, that is so far as convictions, sentences and orders are concerned.

Mr. Lalchand Navalrai: Will these include an order under the proposed section 17A (2) in clause 13?

The Honourable Sir Brojendra Mitter: These are executive acts and they do not come in. It is only judicial orders which come under the appellate or revisional sections of the Criminal Procedure Code. Here the District Magistrate or, in a Presidency-town, the Commissioner of Police, may take possession. That is not a case of order or conviction,—it is only taking possession.

Then I come to the order which is mentioned in clause 17B, sub-section (7). That is an order of the District Judge or Chief Judge of the Small Cause Court, and it is provided that the order shall be final. The effect of that is that appeals are barred. But that does not take away such powers as the High Court may have under section 107 of the Government of India Act. We cannot touch the Government of India Act, because it is a Parliamentary Act. Whatever powers the High Court may have under the Government of India Act are left unimpaired. I think that is all need say and I hope my learned friend will now withdraw his amendment.

Mr. Lalchand Navalrai: Sir, I feel after hearing the Honourable the Law Member that I am satisfied by what he has said and I would, therefore, ask for leave to withdraw my amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Is it the pleasure of the House to give leave to the Honourable Member to withdraw his amendment?

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

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That clause 1 stand part of the Bill."

The Honourable Sir Brojendra Mitter: Sir, I move:

"That after sub-clause (2) of clause 1 of the Bill, the following new sub-clause be inserted and sub-clauses (2) and (3) be re-numbered as sub-clauses (3) and (4), respectively:

"(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas."

I ought to explain why this amendment is necessary. When the Bill was introduced, it was intended to amend the Indian Penal Code and,

[Sir Brojendra Mitter.]

therefore, no extension clause was necessary; but in the Select Committee the Penal Code was left alone and it became a self-contained Bill. We omitted then to notice that in the Bill there was no extent clause; it would not have been necessary if we were amending the Indian Penal Code. Now it is a separate Bill; but there is no extent clause. That is why it is necessary to have this amendment. I move.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Amendment moved:

"That after sub-clause (1) of clause 1 of the Bill, the following new sub-clause be inserted and sub-clauses (2) and (3) be re-numbered as sub-clauses (3) and (4), respectively:

'(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas'."

Mr. Amar Nath Dutt: Sir, I would like to know from the Honourable the Law Member if this clause is not inserted to what countries will the Criminal Law Amendment Bill apply. Are we entitled to legislate for Timbuctoo or Honolulu? I do not know. We are only entitled to legislate for British India. If that be so, I think the insertion of this extension clause is not at all necessary. If it is thought necessary by Government, then we shall see whether we shall or shall not support it.

The Honourable Sir Brojendra Mitter: Sir, if there is no extent clause, then you cannot say whether it applies to the whole of British India or to any part of British India or where it applies. The whole thing is in the air. You must have the extent clause.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That after sub-clause (1) of clause 1 of the Bill, the following new sub-clause be inserted and sub-clauses (2) and (3) be re-numbered as sub-clauses (3) and (4), respectively:

'(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas'."

The motion was adopted.

Mr. K. P. Thampan (West Coast and Nilgiris: Non-Muhammadan Rural): Sir, I beg to move:

"That for sub-clause (3) of clause 1 of the Bill, the following be substituted:

'(3) It shall remain in force for one year; but the Governor General in Council may, by a notification in the Gazette of India, extend it to a further period of one more year'."

You will find that the Bill, as drafted, provides for a duration of three years. You will find also lower down in the agenda there are proposals for restricting the life of this Bill to six months, to nine months and two years, and like that. This is by way of a compromise. I propose that it should last only for one year, but have also provided that the Governor General in Council may, by notification in the Gazette of India, if he thinks it necessary, extend it for another year. This is practically an Ordinance Bill and as Ordinances are generally in force only for six months, it is but proper that this Bill has a duration of only six months. I have, however, considering the extraordinary conditions prevailing provided for one year with powers to the Governor General in Council to

extend it for another year. I believe that the present conditions in India will attain normal state by the time two years expire. The new constitutional Reforms will also come into force by that time. It is sufficient, therefore, if the Bill has a duration of two years as I propose. Generally, it is these repressive laws that beget revolution and it is highly necessary that in the interests of the country this should have life only for the shortest minimum period possible. With these words, I move.

Mr. C. S. Ranga Iyer: Sir, I rise to associate myself with the observations made by my Honourable friend from Malabar. It is not necessary to make a long speech on this subject. There is a precedent and I would ask the Honourable the Home Member to go to his predecessor and see the precedent. In the Press Bill, it was provided that sufficient unto the year would be the evil thereof and I would suggest not to anticipate the calamitous campaign of civil disobedience for three years; but to be armed with legislation for one year and, if need be, to proceed for another year as suggested by the amendment. The Honourable gentleman has been unwilling to accommodate some suggestions from this side of the House and I do not know if he proposes to persist in making his Bill scarlet.

The Honourable Mr. H. G. Haig: Sir, I am well aware of the precedent that my Honourable friend, Mr. Ranga Iyer, refers me to. That is a matter of procedure. But this amendment proposes that the total period of three years which, after very careful consideration in Select Committee, we considered to be essential for the provisions of this Bill should be reduced in the aggregate to two years. That is a proposal which I am afraid the Government cannot accept.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That for sub-clause (3) of clause 1 of the Bill, the following be substituted:

'(3) It shall remain in force for one year; but the Governor General in Council may, by a notification in the Gazette of India, extend it to a further period of one more year'."

The motion was negatived.

Sir Hari Singh Gour: Sir, I move:

"That for sub-clause (3) of clause 1 of the Bill, the following be substituted:

'(3) It shall remain in force for two years only, but the Governor General in Council may, by notification in the Gazette of India, direct that it shall remain in force for a further period of one year'."

From the superstructural Acts or Bills passed in Bombay and in the United Provinces, I should have been disposed to give this Bill the life of one year in the first instance with an additional life of two years in case the Governor General in Council so decided on representations made by the Local Governments affected by this Bill. But as it is, Sir, we feel that the Government might accept at least this amendment and give us a crumb of comfort, because, if it is pressed to a division, I know how it will result. Sir, I move.

Mr. C. S. Ranga Iyer: Sir, I rise to oppose this motion. (Applause from the Nationalist Benches.) I am, Sir, after hearing the speech delivered by the Honourable the Home Member in reply to the very modest request

LEGISLATIVE ASSEMBLY.

Saturday, 3rd December, 1932.

7 Feb

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

STATEMENTS LAID ON THE TABLE.

Mr. T. Ryan (Director General of Posts and Telegraphs): Sir, I lay on the table the information promised in reply to part (d) of starred question No. 1372 asked by Seth Haji Abdoola Haroon on the 22nd November, 1932.

LATE COMMUNICATION OF GOVERNMENT ORDERS REGARDING THE ADJUSTMENT OF COMMUNAL INEQUALITIES IN THE POSTS AND TELEGRAPHS DEPARTMENT.

*1372. (d) Of the seven other Postmasters-General, five communicated the orders in December, 1927, one in January, 1928 and one in May, 1928.

The Honourable Mr. H. G. Haig (Home Member): Sir, I lay on the table the information promised in reply to starred question No. 1191 asked by Sardar Sant Singh on the 15th November, 1932.

NUMBER OF ARRESTS AND CONVICTIONS UNDER THE CONSOLIDATED ORDINANCE.

Statement.

*1191.

Province.	Number of persons convicted not necessarily imprisoned under the consolidated Ordinance for offences connected with the civil disobedience movement during the month of October, 1932.	Number of persons arrested under section 3 of Special Powers Ordinance during the month of October, 1932.
Madras	7	..
Bombay	285	62
Bengal	21	76
U. P.	83	..
Punjab	10	1
B. & O.	200	..
C. P.	..	..
Assam	1	..
N.-W. F. P.	..	3
Delhi	7	2
Coorg	..	..
Ajmer-Merwara	5	..
Total	619	144

[Mr. C. S. Ranga Iyer.]

of my friend, Mr. Thampan, unwilling to humiliate myself and friends of my way of thinking by going with a beggar's bowl to the Treasury Benches and asking them for "a crumb", a phrase which my friend and Leader used. My party fortunately have not examined this position. I am not a beggar screaming for alms at the doors of the Government. Again and again they have turned down our amendments. We are quite willing to face the music and the operation of this law in the manner in which it may operate. Sir, we do not want this mendicant amendment. (Applause.)

Mr. S. O. Mitra: Sir, I support my friend, Mr. Ranga Iyer. It is a mere eye-wash, and I do not see how it is an improvement on the clause introduced by the Government. That is the attitude of our Party also, and, therefore, we oppose this amendment.

Raja Bahadur G. Krishnamachariar: Sir, I oppose this amendment. I do it for a reason which would be quite new. I was recently reading a book called the "New Despotism" written by the present Lord Chief Justice of England. In that book it has been stated that the tendency more and more has been to pass Parliamentary Statutes but to give the executive power to supplement them by rules. Now, for the last ten days I hope my friends have been quite sincere in their opposition to this Bill upon the principal ground that they cannot rely upon the Government and their good intentions. Now, at the end of the discussion, they say—"It does not matter if we give the Governor General in Council power to extend this Act for another year or two," it would look ridiculous. That is exactly what we have all been objecting to all these days. That will be a very inconsistent position to take. If you want to give power to the Governor General in Council, give him power for three years, or if you do not want to give him that power, then stop him from exercising that power after that period. Let him again come before this House and ask that these powers should be conferred again on him. Let the whole question be considered on the conditions then existing, and if you find it necessary to make this law, then make it for 30 years, or 300 years. But to say that you do not want this Bill at all for all these ten days, and now on the eleventh day to ask the Government to give it only two years' life if it chose is a position which can only be described as absurd. It is a position which the present Chief Justice of England declared to be absolutely unconstitutional, and it is upon that ground that I oppose this amendment.

The Honourable Mr. H. G. Haig: Sir, I find myself placed in some difficulty looking to the course of the discussion on this amendment. I think my friend, Mr. Ranga Iyer, must have seen a gleam of benevolence in my eye when his Honourable Leader was proposing this amendment, and, therefore, following the tactics which have been observed by the Opposition throughout these discussions, he was determined not to accept anything that we might be prepared to offer, and thereby he would be able to secure the credit or rather the advantage of declaring that the Government had been absolutely unbending and had not been prepared to meet the Opposition in any way. Well, Sir, this is a matter of procedure, a

procedure which was highly commended by my friend, Mr. Ranga Iyer, on the previous amendment, but when he comes to this amendment, his enthusiasm for that procedure has evaporated. The position of Government is this. If it is any satisfaction to the Opposition, Government are prepared to accept this amendment. On the other hand, if my friends opposite prefer the Bill as it is, we do not wish to force this amendment down their throats.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question which I have to put is:

"That for sub-clause (3) of clause 1 of the Bill, the following be substituted:

"(3) It shall remain in force for two years only, but the Governor General in Council may, by notification in the Gazette of India, direct that it shall remain in force for a further period not exceeding one year."

(After the Division Bell.)

Sir Hari Singh Gour: As my friends do not want this concession, I beg leave to withdraw the amendment.

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

Mr. President (The Honourable Sir Ibrahim Rahimtoola): As it is 5 p.m. 5 o'clock, the Chair desires to ascertain what the wishes of the House are in regard to the suggestion it threw out at the commencement of the proceedings this morning. Is it the pleasure of the House to sit till a late hour today and dispose of all amendments and the third reading, or to sit tomorrow and finish off this Bill? The Chair has tried to ascertain the general feeling of the House and the bulk of opinion appears to be in favour of sitting tomorrow instead of to a late hour today. The Chair has been informed that there is a fairly large number of Honourable Members who wish to speak on the third reading. It is a very important Bill and the Chair wishes to provide opportunity for full discussion on the occasion of this last stage of the Bill. (Cheers.) The Chair, therefore, proposes to adjourn till 11 o'clock tomorrow morning. The House will now adjourn till 11 o'clock tomorrow.

The Assembly then adjourned till Eleven of the Clock on Saturday, the 3rd December, 1932.

Mr. G. S. Bajpai (Secretary, Department of Education, Health and Lands): Sir, I lay on the table the information promised in reply to starred question No. 842 asked by Dr. Ziauddin Ahmad on the 26th September 1932.

ALLEGATIONS OF ILL-TREATMENT TO INDOOR PATIENTS IN THE DELHI CIVIL HOSPITAL.

*842. (a) The enquiries made by Government show that the present strength of the Superior Staff is not enough for efficient supervision of a big hospital like the Civil Hospital, Delhi. They understand that the matter is already engaging the attention of the Municipal Committee. No cases of ill-treatment to indoor patients or extortion of money from them have come to the notice of the Civil Surgeon. He took disciplinary action recently against a Ward Orderly who had neglected a patient in the hospital.

(b) There is no Director General of Civil Hospitals. If the Honourable Member means the Director-General, Indian Medical Service, the answer is in the negative.

(c) The Civil Surgeon, who is also the Chief Medical Officer, Delhi.

Mr. G. R. F. Tottenham (Army Secretary): Sir, I lay on the table the information promised in reply to part (b) (iii) of starred question No. 1221 asked by Mr. B. R. Puri on the 15th November, 1932.

RESUMPTION OF BUNGALOWS IN THE CANTONMENTS OF PESHAWAR AND KOHAT.

Statement showing the rent of the Bungalows acquired.

*1221 (b)(iii).

Kohat Cantonment.

Bungalow No.	Rent (Rs. per mensem.)
6	105
8	125
9	75
21	81
18	63
34	105

(No. 34 was bought on 14th November, 1932, by private treaty.)

Peshawar Cantonment.

Bungalow No.	Rent (Rs. per mensem.)
13 The Mall	Is vacant at present. The last tenant paid rent at Rs. 60 a month.
8 Jheel Road	100 per mensem.
8-A Jheel Road	50 " "
1 Warbarton Road	120 " "
3 " "	100 " "
5 " "	150 " "
6 " "	100 " "
2 Rooskeppel Lane	The owner is in occupation. In 1931, the rent was Rs. 110 a month.
5 Fort Road	The owner is in occupation. Rental value, as assessed under the Cantonments Act, 1924, is Rs. 80 a month.
51 The Mall	50 per mensem.
6 Michni Road	Bungalow burnt down.
21 The Mall	82 per mensem.
9 Willocks Road	153 " "
66 The Mall	115 " "

The price offered for 66 The Mall, Peshawar Cantonment, is Rs. 14,378.

Mr. P. R. Rau (Financial Commissioner, Railways): Sir, I lay on the table:

- the information promised in reply to starred questions Nos. 791 and 793 asked by Khan Bahadur Haji Wajihuddin on the 26th September, 1932;
- the information promised in reply to starred question No. 1472 asked by Mr. K. Ahmed on the 28th November, 1932; and
- the information promised in reply to unstarred question No. 176 asked by Khan Bahadur Haji Wajihuddin on the 30th September, 1932.

CONTROL OF TRAVELLING TICKET EXAMINERS BY THE SUPERINTENDENT, STAFF, ON THE EAST INDIAN RAILWAY.

*791. The Travelling Ticket Examiners are under the control of the Commercial Officer on all Divisions except Moradabad, where the Commercial Officer was unable to take on the work without an Assistant. The work then was undertaken by the Superintendent, Staff, who has an Assistant and who has been carrying it out efficiently. The arrangement was approved by the Agent. It does not call for the sanction of the Railway Board, since provided the principles of the Moody-Ward system are generally followed, Government do not wish to fetter the discretion of the Railway Administration to make as a result of experience of actual working, such modifications of the general arrangements as may be necessitated by the exigencies of local conditions.

REPORTS OF CHIEF INSPECTORS OF TRAVELLING TICKET EXAMINERS ON THE TICKET CHECKING SYSTEM.

*793. Government are informed that no such report was called for.

HOUSE RENT FOR THE STAFF ON THE HARDWAR-DEHRA DUN SECTION OF THE EAST INDIAN RAILWAY.

*1472. This is not correct. All staff at Dehra Dun who are eligible for the house rent under the rules are granted the same.

ALLEGED FRAUDS IN THE EAST INDIAN RAILWAY HIGH SCHOOL, TUNDLA.

176. (a) Certain irregularities were reported in September, 1931, and the audit of the accounts by the Divisional Accounts Officer confirmed this. His report is a departmental document which Government do not consider it would be in the public interest to publish.

(b) The Head Master was first granted leave on account of ill-health from 15th September, 1931, to 7th July, 1932, and on the expiry of that leave was suspended by the President of the School Committee pending an enquiry into the irregularities reported.

(c) It appears that a Radio Physics Course, a Soldering Iron and a Water Radio Meter were purchased by the Head Master and the transactions appeared in the School accounts. As technical classes are held at the School, there is, however, nothing to show that they were not purchased for the use of the School.

(d) A preliminary enquiry was held and as a result of this a charge was formulated. On receipt of the Head Master's explanation, a senior officer's enquiry was called which included the Officiating Deputy Director of Public Instruction, United Provinces.

The report of this Committee was considered by the President of the School Committee, who was of opinion that the case would be met by a severe reprimand and by withholding Mr. Bansal's increase for a period of one year.

(e) The Head Master was admitted to the Agra Mental Hospital on the 22nd September, 1931, and remained there till about the 2nd November, 1931. The preliminary enquiry was not held until the following June

THE CRIMINAL LAW AMENDMENT BILL—contd.

Mr. Nabakumar Sing Dudhoria (Calcutta Suburbs: Non-Muhammadan Urban): Sir, I move;

"That for sub-clause (3) of clause 1 of the Bill, the following be substituted :

'(3) It shall remain in force for one year only, but the Governor General in Council may, by notification in the Gazette of India, direct that it shall remain in force for a further period not exceeding two years'."

Sir, my object in proposing to extend the duration of this Bill to one year in the first instance should not appear to the House either without reason or without precedent. Those of us who have closely followed the proceedings of the several Provincial Legislatures are aware that Bombay, Punjab, United Provinces and even Bengal Councils, that have recently enacted on the identical lines, have limited the life of such a legislation to one year only. Therefore, I see no reason why the Government of India should be so anxious to overdo their part in the matter and make the Bill run a three years' life all at once. Sir, it is anticipated that one year's operation of the Bill will bring about the desired result and so to propose to run it for a course of three years at one stretch will be galling to public feeling. My proposal does not preclude the Government of India to extend the life of the Bill for a period of another two years after it is in operation for a year, if there will be the real necessity for such an extension. Sir, we have got to move quite cautiously in the matter of a legislation of this character and should not allow ourselves to be carried away by any sort of over zeal or panic in the matter. Sir, if my amendment is acceptable to the House, it will on the one hand pacify the public feeling that has grown in this enactment and, on the other hand, will substantially take away the force and vigour at the time of the third reading. With these words, Sir, I commend my amendment for acceptance of the House.

The Honourable Mr. H. G. Haig (Home Member): In earlier debates on this Bill, I made it clear on behalf of the Government that we wished to ensure that the powers conferred by this Bill will be retained for a reasonable period. If there is any uncertainty about that, it will reduce considerably the effectiveness of the Bill. One year is not in my opinion a reasonable period and if it were supposed that at the end of one year these powers might be withdrawn, we should not be securing the effect at which we are aiming. If, on the other hand, it is clear that at the end of one year, the Government of India will not be in a position to dispense with these powers, then there is no advantage in having a provision expressed in this form, which really has precisely the same effect as the provision already in the Bill laying down the period of three years. Sir, I oppose the amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That for sub-clause (3) of clause 1 of the Bill, the following be substituted :

'(3) It shall remain in force for one year only, but the Governor General in Council may, by notification in the Gazette of India, direct that it shall remain in force for a further period not exceeding two years'."

The motion was negatived.

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): Sir, I move;

"That in sub-clause (3) of clause 1 of the Bill, for the words 'three years' the words 'six months' be substituted."

I know there is no chance of my amendment being accepted; still I should like to make it clear why I have tabled this amendment. It is admitted even by Government that this legislation is only an emergency measure. Emergency by its dictionary meaning is a certain juncture calling for immediate action. That action has been taken and even in the Government of India Act there is provision for emergency occasions in section 72 where it has been provided that Ordinances promulgated by the Governor General shall last for a period of six months. If it is an emergency measure, the period should be only six months. Further, when Government accepted the period of three years, they were under the impression that by that time the new constitution would be settled and for this intervening period there should be special legislation. As the work of the Round Table Conference is proceeding, it is quite clear that within six months it will be settled. The amendment of Rai Bahadur Sukhray Roy, which was not moved, wanted the period to be for only one month. Even that period is sufficient for us to know what is in store for India under the new constitution. I think the special legislation should last only for six months. Therefore, I move my amendment.

Mr. S. G. Jog (Berar Representative): Sir, I have great pleasure in supporting the amendment moved by my friend, Mr. S. C. Mitra. On the face of it, it looks no doubt ridiculous that since the amendments for limiting the period to one year and two years have been thrown out by the Honourable the Home Member, how can there be any chance of this amendment succeeding. But I, for one, would say that there is no principle in making the amendment for two years or for one year, but in making this amendment for six months there is a principle and we are following that principle. As explained by my friend, Mr. Mitra, this is an emergency measure. No emergency ordinarily lasts for more than six months, and, therefore, we maintain that this emergency measure should last for six months only. In doing this we are not doing anything more than what was done under the Ordinances. We are only assuming for the time being the power which the Viceroy exercised, by virtue of his position, with regard to the Ordinances. The issue of subsequent Ordinances was either unconstitutional or awkward and, therefore, this matter has been brought before the House. The House has also so often said that such measure should be placed before it and the power of issuing Ordinances should not be exercised. Therefore, it has come before the House in the form of this Bill.

[Mr. S. G. Jog.]

From the discussions we have had for such a long time the Home Member by now probably must be conscious of the fact that the provisions of the Bill even in their approved form are not approved of by this side of the House. However, as a lesser evil we would like to have the life of the Bill restricted to six months only. The next six months are the most critical in the life of this country as the constitutional changes are on the anvil and are being discussed. After six months, if the new constitution and the new reforms come up to the expectations of the people, I hope the so-called civil disobedience movement will be abandoned and there will be no necessity for this Bill. Under these circumstances, I submit that as there is a principle behind this amendment of six months, it should be accepted. We had a lot of discussion in the Select Committee also on this amendment and we had a substantial number on our side who pressed for the amendment of six months. The same thing we are doing here and we are not doing anything more than what the Viceroy had done by the promulgation of these Ordinances. I think we should not go beyond that period. I wholeheartedly support the amendment.

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): Sir, a similar amendment stands in my name. I support this amendment, and my reasons for doing so are these. The Preamble itself says:

"Whereas it is expedient to supplement the Criminal Law and to that end to amend the Indian Press (Emergency Powers) Act, 1931, and further to amend *temporarily* the Indian Criminal Law Amendment Act, 1908, for the purposes hereinafter appearing;"

Sir, if an amendment is made and the life given to it is three years, it can never be said to be temporary at all. Therefore, to keep in conformity with the very intention of making this Bill temporary, I submit, that six months' time is the time which can be called temporary. Sir, the Bill is emergent and we should seek certain precedents and law with regard to the age of an emergent Bill. Sir, under the Government of India Act, it is only six months that is the duration prescribed for making an emergency Bill. It would be unconstitutional if we go beyond that. It is clear that the Viceroy also made the Ordinances which had their life only for six months and they were repeated. Of course, this House also could repeat the Bill if any necessity arose for doing so. But I cannot understand for a moment why is it that the Government are anxious and persistent in allowing this Bill to remain in force for three years. Sir, it may be that the Government might be thinking of carrying on the fight that they have indulged in with the people for three years, but, I submit, that will be a wrong idea. In these days Government should rather conciliate the people than irritate them. I submit that the Assembly meets not only once, or twice, but now-a-days meets three times in the year and if circumstances still require, it will not be difficult for the Government to come in again before this House for extension. I, therefore, support this amendment.

The Honourable Mr. H. G. Haig: Sir, the argument by which this amendment is supported appears to be that an emergency cannot last for more than six months and this proposition is sought to be established by reference to the powers in the Government of India Act which enable the Governor General to issue Ordinances for a period of six months. Sir,

I suggest that the reason that a limited period is placed on the powers of the Governor General is not that there is an inherent limit of six months to the period of an emergency, but that it is not considered reasonable that this very exceptional procedure of enacting legislation by the order of the Governor General should have more than a limited period of life. The theory is that after a certain period, if the emergency, or the conditions which necessitated that legislation continue, the legislation should be put before this House and that is precisely the action which we have taken. Now, Sir, it is clear on the face of it that in the particular case we are considering, the situation has lasted already a good deal more than six months and he would be a very sanguine person who could assure me that at the end of six months the civil disobedience movement will be not only dead but buried. I would only add this that when we put a measure like this before the House it takes a great deal of our legislative time. We have already been engaged for, I think, fully, three months in the deliberations on this Bill and if every six months we are to spend another three months on re-enacting a Bill for a further period of six months, I fear the business of the House will be very seriously impeded. Sir, I oppose the amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in sub-clause (3) of clause 1 of the Bill, for the words 'three years' the words 'six months' be substituted."

The motion was negatived.

Mr. Amar Nath Dutt (Burdwan Division: Non-Muhammadan Rural): Sir, I beg to move:

"That in sub-clause (3) of clause 1 of the Bill, for the words 'three years' the words 'nine months' be substituted."

From the laughter with which the motion is greeted on my side of the House, let not my Honourable friends on the Treasury Benches think that they do not approve of this amendment. It is only a sympathetic laughter, because they know what will be the fate of this amendment. Sir, I still move it, and my reasons are these. The powers of the Governor General to issue an Ordinance is for six months. When Government have come with a Bill before this House we take it that His Excellency's Government think that more than six months is needed for a law like this and, as more than six months is needed, they have come to this House. We are also willing to accommodate them to some extent if that is correct and we will give them nine months.

Sir, by September next we will in all probability have the elections under the new constitution, and that being so, I think we should not leave this as a legacy to our successors and bind their hands. Let us be condemned throughout the country for having enacted a law like this, but let us not bind the hands of those whom the people in September next will return to our places and who will see whether or not such a law is required. With these words I beg to move the amendment.

The Honourable Mr. H. G. Haig: Sir, I think I need not repeat the general argument I have already adduced for the period of three years. I oppose the amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in sub-clause (3) of clause 1 of the Bill, for the words 'three years' the words 'nine months' be substituted."

The motion was negatived.

Mr. B. V. Jadhav (Bombay Central Division: Non-Muhammadian Rural): Sir, I move:

"That in sub-clause (3) of clause 1 of the Bill, for the words 'three years' the words 'one year' be substituted."

The Honourable the Home Member thinks that a period of six months is very limited and that he will be a sanguine person who will assure Government that the purpose for which this Bill has been brought forward will be fulfilled within that short period. I think, Sir, that when I move that the period of this Bill should be limited to one year, the Home Member will not think that I am a very sanguine person. Sanguineness or pessimism are temperamental. Government have been promising us a very liberal constitution at the conclusion of the deliberations of the Round Table Conference, and if Government are to be taken at their word, then that liberal constitution ought to satisfy the reasonable section of the Indian public; and one can very sanguinely expect that all the unrest that has been created on account of the political disaffection will subside and normal times will return. But if Government themselves have doubts about the liberality of the future constitution, then of course they are pessimists themselves and they expect that the unrest might continue. But in that case even three years will not suffice and the unrest will not go. But if the constitution is satisfactory, one year will be sufficient; and for this reason I place before the House this amendment that the period should be limited to one year.

The Honourable Mr. H. G. Haig: Sir, we want by this Bill to give some assurance to those who desire stable conditions for the introduction and starting of the new constitution. It has been suggested by my friend, Mr. Jadhav, that if in fact the new constitution is a reasonable one, there need be no further apprehensions. But that argument rests on the presumption that the behaviour of the extremists in this country will always be reasonable, and that is a presumption on which we cannot proceed. After all we have to remember that for the second time the civil disobedience movement was started on what we regard as quite inadequate grounds, and if an opportunity is afforded by a relaxation of these powers it may be started for the third time. Sir, I oppose.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in sub-clause (3) of clause 1 of the Bill, for the words 'three years' the words 'one year' be substituted."

The motion was negatived.

Mr. Amar Nath Dutt: Sir, I beg to move:

"That in sub-clause (3) of clause 1 of the Bill, for the words 'three years' the words 'fifteen months' be substituted."

Sir, I shall not attempt the impossible feat of convincing my friends on the opposite side, for those who are not willing to be convinced cannot be convinced. There is a story that a certain minister once promised that if any one could convince him of the reasonableness of a certain measure, then he would give up everything that he possessed in this world. When he went home, his wife was very morose and frightened and said: "What have you done? If anybody is able to convince you, we shall lose everything." Then he consoled her by saying: "Why are you so afraid? To be convinced and to express that I am convinced rests with me, and do you think I am such a fool as to ever acknowledge that I am convinced?" So is the case with my friends on the opposite side. They will never say that they are convinced with the reasonableness of any argument whatsoever on our side. But here is a period for which I ask the Bill to remain in force for reasons which I shall presently give.

It has been said that they want to hand down the present administration to those who will be in charge of the Indian Government after the new constitution comes into force. Sir, considering the haste with which framing of the new constitution is going on, and considering that almost everything is ready save and except the outside veneer of showing to the world that they have taken certain Indians into their confidence, considering all these things, we may reasonably expect that the new constitution will come into working order in the year 1934—it is just 12 months from now—and that being so—and if you want to give the rulers under the new constitution some time, say for three months, then one would have expected us to consider whether we should pass such drastic legislation. And if they require a law like this, no doubt they can have the necessary legislation. It has been said ironically by my friend, the Honourable the Home Member, that it will take three months for re-enacting this Bill.

The Honourable Mr. H. G. Haig: I did not say it ironically. I said it seriously.

Mr. Amar Nath Dutt: Whatever it may be, I beg to submit that the next Government that will succeed the present one, if it thinks that such a measure is necessary, then they will not require so many months to pass a Bill like this, for, Sir, I hope that under that constitution neither obstructionists, as we are called by some friends on the other side, like ourselves will be here nor I hope and wish that men who would have such Draconian legislation as we are discussing at present will sit on the Treasury Benches. So these two factors which have been responsible for taking so much time as three months will not be there, and I do not think you can presume that they will be so unreasonable as ourselves or the Honourable Members opposite. That being so, I submit that one year for the coming of the new constitution into force plus three months is the proper duration for this Bill, and no reasonable man can oppose this. Sir, I move my amendment.

The Honourable Mr. H. G. Haig: Sir, I do not think it is necessary to repeat my general arguments, which apply equally to all the various fractional periods which my Honourable friend, Mr. Amar Nath Dutt, proposes.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in sub-clause (3) of clause 1 of the Bill, for the words 'three years' the words 'fifteen months' be substituted."

The motion was negatived.

Mr. T. N. Ramakrishna Reddi (Guntur cum Nellore: Non-Muhamadan Rural): Sir, this is the last of the amendments for fixing the time-limit for this Bill and I request the Government to give their various consideration to this amendment. Sir, before I move this, I must make two things plain. In moving for a certain limitation of the period of duration of the Bill, I do not admit that the movement exists which requires this drastic Bill, and, secondly, that if there was a responsible Government, they would not have passed such a piece of obnoxious legislation. Now that the Bill is going to be passed, we have to face the facts now and the only way in which we can mitigate the rigour of this Bill is to fix a certain time-limit for this Bill. Now the Government admit that this is an extraordinary piece of legislation, designed for some extraordinary purpose, viz., to put down the civil disobedience movement in all its forms and activities. I ask the Government, then, why should they fix a time-limit? It is because Government themselves think that this movement will come to an end in the course of three years, and that is why they fix this time-limit, and various amendments have been moved for fixing the time-limit at six months, one year and various other periods within that period of three years. Sir, I do not approve of any fixed time-limit. These civil disobedience movements are planned and destined for achieving a certain object. When that object is achieved, such movements will not exist. They are not designed to continue for some particular period. They are designed for some particular object and when that object is achieved, such movements cease to exist by themselves and there is no necessity for the existence of any repressive legislation. So my amendment runs, and I move it, Sir:

"That in sub-clause (3) of clause 1 of the Bill, for the words 'three years from its commencement' the words 'the time until the new constitution for India comes into operation' be substituted."

When the new constitution comes into operation, there will be no necessity for this legislation, since the object of such movements is to get responsible Government for India and that is exactly what His Majesty's Government as well as the Government of India have repeatedly been saying that they want to give us responsibility at the centre. Now, when that responsibility comes, there will be absolutely no necessity for this movement. Now the Honourable the Home Member said that this has nothing to do with the introduction of responsible Government. It would thus appear that if the present behaviour of the extremists continue, then it is reasonable to presume that this Bill will also continue, that is to say, that the period of this Bill must depend upon the reasonableness of the extremists. Now, if that is the argument of the Government, why should they fix three years as the period? Do they think that after three years the whole attitude of the extremists will change? Or, they can now come openly and say that the measure will remain on the Statute-book for ever and ever. Government, however, themselves perceive that some limitation must be fixed for the duration of the Bill, and, I submit, this is the only reasonable limitation which ought to be agreed to. Further,

there is another fact also to be taken into consideration. His Excellency the Viceroy and many other responsible persons in England also have been stating repeatedly that we should create a favourable atmosphere for the working of the future reforms. Now, if that is really in their minds, Sir, then here is a good opportunity for creating such a favourable atmosphere for the working of the new reforms; moreover, by removing such obnoxious legislation, they would afford a great relief to the people in the country and that will conduce to the creation of the favourable atmosphere which is so much to be desired. It is for that reason also that I request that a time-limit should be placed and such limit I propose should be "until the new constitution for India comes into operation". With these words, Sir, I move my amendment, and I request the Government to give their serious consideration to this amendment.

Mr. S. C. Mitra: Sir, I support the amendment of my friend, Mr. Reddi. Sir, it is a very reasonable amendment also. I had my apprehensions that perhaps it would be considered to be not in order, not to fix a definite period, but if this amendment is in order, then I wonder what objection can Government have to accepting this amendment. I think in this matter we will have the co-operation of my friend, Mr. Yamin Khan, because it was his suggestion that this Bill should be for the *interim* period till the new constitution is launched fully; and so, if it is acceptable to other Members of the House, who usually do not vote with us, there is some chance of its acceptance by the Government.

Mr. O. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhamadan Rural): Sir, I rise to oppose this amendment, and I oppose it for this reason. I refuse to give the Government so far as I am concerned—and I speak for a constituency from the United Provinces where there has been a great upheaval of public opinion—I refuse to give the Government even the restricted—though I do not think it is restricted—power to continue the Ordinance so long as the new constitution does not come into operation. As I said, when I opposed the Ordinance Bill when it was introduced, it is most objectionable to suppress the agitation which is bound to surge in the country during the period when India wants to agitate and see to it that her agitation succeeds to secure new reforms. As Dryden said:

"More liberty begets desire for more:

The Hunger still increases with the store."

With the store of the Montague reforms, there has been growing hunger for greater reforms and that hunger finds expression in the Indian Press and I will not be a party to granting the Government any power to work the Ordinances in the country with the sanction of the Legislature until the new reforms come into operation, and, therefore, I oppose this motion.

The Honourable Sir Brojendra Mitter (Law Member): Sir, there are two objections to this amendment: one is the drafting objection which my Honourable friend, Mr. Mitra, indicated. It is one of the fundamental rules of drafting that you must have a definite commencement and a definite termination for any measure. The amendment suggested is, to say the least, indefinite "until the new constitution comes into operation". Therefore it is objectionable from that point of view. If you had said 1st January, 1934, or 1st April, 1934, or 1st January, 1935, it would have been a definite date and the objection would not hold; but this is too indefinite. The second objection is this: it is not outside the bounds of

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possibility that the new constitution will come into operation at different times: for instance we have seen it in the papers that suggestions have been made that the new constitution will come into operation in the provinces in the first instance and, at some later period, in the Centre. (Laughter from the Opposition Benches) (*An Honourable Member*: "The cat is now out of the bag"). Which is the date of the new constitution coming into force—in the provinces or in the Centre? I am only indicating possibilities. That is the second ground of indefiniteness so far as drafting is concerned. Then on the merits. My Honourable colleague, the Honie Member, has made it perfectly clear in the course of this debate that the intention of Government is to hand over the weapons to persons who will be running the new constitution and we do not want to handicap them at the start of working the new constitution by the absence of these powers. Sir, I oppose.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in sub-clause (3) of clause 1 of the Bill, for the words 'three years from its commencement' the words 'the time until the new constitution for India comes into operation' be substituted."

The motion was negatived.

Mr. S. O. Mitra: Sir, I move:

"That for sub-clause (4) of clause 1 of the Bill, the following be substituted:

'(4) No section of this Act shall come into force at once, unless any Local Government may, by notification in the local official Gazette, direct that any particular section shall come into force in any area on such date as may be specified in the notification.'"

In the Government Bill itself in sub-clause (8), there is a provision that sections 4 and 7 will not come into force automatically, unless any Local Government, by notification in the official Gazette, declare them to be enforceable. My purpose is only to enlarge that sub-clause. It has been admitted that the offences that are likely to be controlled by the provisions of this Act are not frequent in every province in India. If we look to the sections, e.g., section 2, that is, dissuasion from enlistment of persons entering the Military, Naval, Air or Police Forces, I think a large portion of it is not in any way concerned with my province. There are other provinces also where this section is not at all applicable, because there are no cases occurring there. If provisions like boycotting of public servant or section 7 dealing with molestation or picketing, if they are optional with Local Governments for applying for enforcement, why not the other provisions which are admittedly not so frequently happening in other parts of India, should not be left to the choice of Local Governments to apply for? Some of the provinces are already providing for some of these provisions. As regards clause 8, that is, the power to order parent or guardian to pay fine, Bengal, Madras, Bombay and United Provinces—four big provinces—have already legislation to that effect. So, on general grounds, instead of making this whole piece of legislation enforceable throughout the length and breadth of India from the day it is enacted, I suggest that Government may accept this amendment so that any province that may be particularly suffering from any of those difficulties might by notification alone have it enforced. The general ground of the Honourable the Home Member that

it will take a long time to enact the law again in the provinces will not apply, because by merely inserting a few lines in the local Gazette they can have it applicable in the province. Sir, I move my amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Amendment moved:

"That for sub-clause (4) of clause 1 of the Bill, the following be substituted:

'(4) No section of this Act shall come into force at once, unless any Local Government may, by notification in the local official Gazette, direct that any particular section shall come into force in any area on such date as may be specified in the notification.'"

Mr. C. S. Ranga Iyer: Sir, I rise to oppose this motion, and if I do so, it is because I refuse to put this powerful engine of oppression into the hands of any Local Government; for as Milton said, it is "a devilish engine" which "back recoils". I refuse to allow this engine to recoil on the struggle for reforms which is going on in the country. I do not have any confidence in the capacity of the Local Governments to administer the new measure any better than the Government of India. Therefore, I oppose this motion.

Mr. K. P. Thampan (West Coast and Nilgiris: Non-Muhammadian Rural): Sir, I have also given notice of an amendment more or less analogous to the one under discussion. Conditions, I mean the present unrests, vary in different provinces. In Madras, for instance, people have imbibed the non-violent character which is the essence of the great Mahatma's doctrine, and are confining themselves only to *khadi*, peaceful picketing of liquor and *Bideshi* shops and other non-violent activities. You must be aware, Sir, that since the lamented murder of the late Mr. Ash in Tinnevely about 20 years ago, there has been no political murder of any kind in my Presidency, and there is absolutely no need of a legislation of this kind there. It was widely talked about in Madras that the Local Government did not want this legislation. Besides Madras, there are other provinces where the political atmosphere is comparatively quiet. Why should this Bill be made applicable to such places? In the interests of peace and contentment, it is highly desirable that such a weapon as this, which is capable of being abused, should not be entrusted to subordinate officials throughout the country. I support this motion.

Mr. Amar Nath Dutt: Sir, I am also sorry that I have to oppose this amendment, except for the principle laid down by the Law Member. If, instead of the words "no section of this Act shall come into force at once", my friend had put the words "the Act will come into force from the 1st of April" like the official year, I would have been the first to accept the amendment, but since he has not done so, I am sorry I am obliged to accept the principle laid down by the Honourable the Law Member.

The Honourable Mr. H. G. Haig: Sir, the provisions relating to the Press must clearly be in force throughout India. It is not feasible to have these regulations relating to the Press in force in one part and not in another, for the fact that certain areas were omitted from this control would at once lead to papers being started there. We have in fact recognised that there are certain powers which it is desirable should not be in force if there is no definite organized movement at the moment to deal with which those powers are required. We have, therefore, provided in

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sub-clause (4) that section 4 dealing with boycott and section 7 dealing with picketing shall not come into force without notification. The other powers, Sir, I maintain, it is reasonable should come into force at once.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question which I have to put is:

"That for sub-clause (4) of clause 1 of the Bill, the following be substituted:

'(4) No section of this Act shall come into force at once, unless any Local Government may, by notification in the local official Gazette, direct that any particular section shall come into force in any area on such date as may be specified in the notification.'

The motion was negatived.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Sir Hari Singh Gour.

(The Honourable Member was not in his seat.)

Mr. K. P. Thampan: Sir, I beg to move:

"That in sub-clause (4) of clause 1 of the Bill, after the words 'Local Government may' the words 'on the recommendation of the Legislative Council of the Province' be inserted."

The object is quite obvious. I want that the Government should have the moral support of the people of the locality before they introduce these clauses in any province. It has been said that the Government and the Secretary of State are willing to introduce complete provincial autonomy without waiting for the next reforms, and so this is the acid test of their *bona fides*. If they are sincere in their declarations, the Government ought to accept this amendment.

The Honourable Mr. H. G. Haig: Sir, we propose by this Bill to give certain powers to the executive Government and to provide for certain new forms of offences. We cannot agree that these powers can be rendered nugatory by the Resolution of any local Legislative Council. Sir, I oppose the amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question that I have to put is:

"That in sub-clause (4) of clause 1 of the Bill, after the words 'Local Government may' the words 'on the recommendation of the Legislative Council of the Province' be inserted."

The motion was negatived.

Sir Hari Singh Gour (Central Provinces Hindi Divisions: Non-Muhammadan): Sir, may I crave your indulgence to move my amendment?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member ought to have been in his seat. He was called but he was absent from the House.

Sir Hari Singh Gour: I was doing some other work there.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): That has nothing to do with it. The Honourable Member must be present in the House.

The question is:

"That clause 1, as amended, do stand part of the Bill."

The motion was adopted.

Clause 1, as amended, was added to the Bill.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That the Title and the Preamble do stand part of the Bill."

The motion was adopted.

The Title and the Preamble were added to the Bill.

The Honourable Mr. H. G. Haig: Sir, I move:

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

Mr. B. Sitaramaraju (Ganjam *cum* Vizagapatam: Non-Muhammadan Rural): Sir, though form requires before the third Reading that a motion should be made that "the Bill, as amended, be passed", I am afraid no amendment has been made except the rejection of an absurd *Explanation*. This Bill has emerged from the Select Committee as an Ordinance and has taken the shape of a steam roller on the floor of this House, and as such it has though slowly but steadily crushed every opposition made to it. Its easy passage does not reflect any credit on the Opposition, but that is another story. Degenerated and dispirited as we are, we could only appeal to statesmanship and humanity, but, Sir, a steam roller has neither statesmanship nor humanity, and we could not even save an invalid from being crushed by this repressive legislation. However, I would welcome the provisions of this Bill if I were a terrorist. The provisions of this Bill constitute an invitation to swell the ranks of terrorism by suppressing all expressions of political thought in this country, and that result is obvious. It is very remarkable that the Honourable the Home Member, who was very anxious to spare the future Government from the terrors of terrorist activities, should constitute himself as the recruiting agent to swell the very ranks of the terrorists. His intention may be good, but the remedy he has employed is the wrong remedy, for he is seeking to drive underground all political thought and all political activities. Provisions of this character must necessarily drive political thought underground, political action into secrecy and political opposition into violence. The Honourable the Home Member said that the civil disobedience movement had points of contact with terrorist activities. Orthodox Congress always dissociated itself from all forms of violence. But assuming for a moment that the unorthodox Congress activities have established points of contact, I would like to ask the Honourable the Home Member whether, by the provisions of this Bill, he is going to sever those points of contact or going to strengthen the bonds between the Congress and the terrorists? I would appeal to him to take a dispassionate view of the case. Whatever may be those points of contact, it must be admitted that the civil disobedience movement is, after all, a passive resistance movement, and in

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a movement of that description one would think that all the advantages are on the side of the Government. The civil disobedience movement is a passive resistance movement. A description of that movement has been given earlier on this debate by the Honourable the Home Member, but I would like to just describe what the civil disobedience movement really is. It is a movement which acts in the open, in a manner proclaimed from the housetops, and to an extent fully advertised. It goes about unarmed to violate a petty law, courting punishment, suffering indignities. It offers no defence, nor does it seek any evasion. It surrenders voluntarily and leaves the Government to punish it as much as they could, and bears that punishment cheerfully. That is the gist of the civil disobedience movement. (Mr. S. C. Mitra: "Hear, hear.") One would think that if a rebellion against law and order were to take that form, all the advantages were on the side of the Government, because Government would then be able to know with whom they were dealing, and they would be able to know to what extent those who were opposing them would go. Short of contentment with their Rule what other form would the Honourable the Home Member like a movement to take?

I remember the Honourable the Home Member the other day saying that when the Congress was taking to direct action they were placing themselves outside the pale. What was the Congress doing for half a century? For half a century the Indian National Congress never took to direct action. That was exactly the record of the Congress before they entered upon the course of direct action. For nearly half a century the Indian National Congress, with the whole of Indian political thought behind them, had carried political agitation in a manner which even Mr. Churchill would approve. In those days the Congress would not dare to think of being free, much less would they ask for it. They asked to be treated only as men, and that in the most orthodox way. They petitioned, they remonstrated, and supplicated. And what was the result? Those petitions were rejected, the remonstrances were set at nought, and their supplications were disregarded. No wonder, Sir, that the Congress lost its faith. They had to come to the inevitable conclusion that it is better to rely upon themselves than upon the justice and generosity of the rulers. They are asked to rely on the Round Table Conference methods. I am afraid, if all that we hear today and we have been hearing in the past were to be believed, our chains have been forged and their clanking can be heard now in the Robe Room of the House of Lords. It must be said to the credit of the Congress that they have chosen a form of activity which is least harmful to the Government or to the public, and which has excited the admiration of the disinterested world. Notwithstanding all the barbarities to which the agents of law and order have subjected them, they remained essentially non-violent under a severe test which did no credit to any Government which call themselves civilised. I might be charged with prejudice if I say anything, but I would like the House to know what disinterested American opinion has to say about it.

"Lathi beatings and other forms of governmental 'firm action' have gone on apace, yet the Indians have remained predominantly non-violent. The longer the repression lasts, the deeper and more widespread grows the Indian bitterness. . . Indian unity increases."

That was the opinion of a disinterested American gentleman.

I am not a Congressman, nor ever was. I have no sympathy with the civil disobedience movement, very much in the same way I would have no sympathy with a man who would like to convince a tiger on the virtues of a vegetarian diet. (Laughter.) The sacrifice, however little it is, is a waste. A Government which put their faith in the mailed fist are incapable of appreciating a sacrifice which could appeal only to all that is best in human nature. Had it not been for the due appreciation of the consequences that are likely to result by the suppression of all political expression, I would have thought the waste of Congress sacrifices would be saved under this Bill and that at any rate is a recommendation in its favour.

The Honourable the Home Member and the Leader of the European Group have both said that it is not the intention under this Bill to suppress nationalism. Nationalism, when once rightly awakened, cannot be suppressed. Nobody need take the trouble to tell us that. If it cannot be allowed to pass on the highways, it will pass through the byeways and if the byeways are blocked, it will pass through underground.

No repressive laws will have any decent chance of success unless public opinion is behind it. The Government ruled with these laws under the Ordinances and the severity of that rule has penetrated the busy cottage, the cultivated field and the industrial houses, and even invaded the seclusion of the zenana. What is the verdict of the country today on that rule? Need I remind what the verdict is? It is a strong condemnation of the measures that have been taken, and today that Ordinance regime is consolidated in the form of a legislative Bill, and it is needless for me to say that the worst features of that regime are incorporated in this Bill. They are entrusting unlimited powers to the executive officer. After all, he is an executive officer. He is an interested judge; and in some cases he is the sole judge. He is an arbitrary judge, who proceeds in secret, condemns without hearing, and decides even without appeal. In all these, the public opinion must necessarily rally round the victim of official *zoolum*, and the administration of law and maintenance of order will be rendered more difficult. The indulgence of the public will be in proportion to the rigour of the Government. I dare say Government can successfully suppress the civil disobedience movement as such. But suppression of political activities is another matter. The India Delegation has remarked that the creed of Gandhi was a shield to Government. The Honourable the Home Member was amused when Mr. Gandhi was called by them as the best policeman in India to protect the lives of Englishmen. He would not have smiled had he refreshed his memory with the very passages he himself read on the Terrorist Bill where those terrorists repudiated the policy of Gandhi and condemned the Congress activities, saying that it was too soft and no cure for the political evils of the country. Does not the Home Member think that but for Gandhi political activities might have taken perhaps a different course?

The Honourable Mr. H. G. Haig: Who moved the resolution in the Congress applauding Bhagat Singh's character?

Mr. B. Sitaramaraju: I do not know who moved the resolution which was moved in the Congress, but all I would say is this. I take my stand firmly on the fact that the Congress has never stood for any violence.

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and it is not the creed of the Congress to indulge in violent activities. The Congress has dissociated itself from violent activities. It has always done that. If, on that occasion, Congress extolled the personal character of Bhagat Singh, it had nothing to do with the terrorist activities of Bhagat Singh. I know that there is nothing which I can say that can alter the pre-determination of the Government. They blundered into a Great Empire. If they blunder out of it, they would be only following the way of Empires, but I would like to say that the consequences of their misgovernment will not only fall on them, but upon us also and we have to pay as dearly as the Government for this misconceived legislation. With these words, I oppose the Bill.

Mr. P. G. Reddi (Guntur cum Nellore: Non-Muhammadian Rural): I rise to oppose this Ordinance Bill at this late stage, because I am convinced that it is directed against the rights and liberties of the people and of the Press. If the right of holding meetings and conducting papers is to be regulated by Ordinances, all I can say is that our citizenship is reduced to a mere mockery, leaving us practically at the mercy of the police and the district officials. It looks as though India will never be allowed to walk with her head erect in the Imperial family as an equal nation, judging from the scope of the Ordinances which interfere with all the departments of political activity and even our social well being. The temperance movement cannot be promoted any longer than the Swadeshi movement by peaceful picketing. The laws invade even our social sphere and the tentacles of the Ordinances have been stretched so far that even the sins of the son will be visited on the father. I urge on the Government that they should observe restraint and instruct their officers charged with the operation of these Ordinances that they should observe moderation. Even the object of the Government will be defeated by excessive severity and good statesmanship demands that this excess should be avoided. The other day, my Honourable friend, Mr. Yamin Khan, disclosed that it was owing to pressure from the Army Department that this Bill had to be made more rigorous than before. Whatever that may be, and owing to the weakness of the House, it is going to be carried. I trust that Government will instruct their officers to observe moderation in the working of this measure.

Mr. N. R. Gunjal (Bombay Central Division: Non-Muhammadian Rural): (The Honourable Member spoke in the Vernacular*).

Mr. Muhammad Azhar Ali (Lucknow and Fyzabad Divisions: Muhammadian Rural): Sir, I must apologise for not having been able, owing to my serious illness, to speak on this Bill, but I do not now think it expedient that I should record a silent vote. Sir, the principles of this Bill, when judged from a juridical point of view and specially from the point of view of criminal jurisprudence, seem to be absolutely unfounded on reason. I say that there is not a principle in this Bill which is not against the principles of criminal jurisprudence. The one principle which runs in every clause of this Bill is that of vendetta or vengeance. If we

*A translation of the speech will appear in a later issue of these Debates as an Appendix.

calmly stand here to consider the Bill, we find that it is actually to take vengeance not on young children who have committed some criminal act as defined in the Bill but to wreak our vengeance on parents and I call it nothing less than a vendetta. The other principle which I find lurking in the Bill is, that when in olden days individual vengeance was to be wreaked or satisfied, it was in the form of some monetary compensation. But, Sir, those olden days are gone, society has been formed, the State is here, still we find that that very principle of monetary compensation runs throughout this Bill. The third principle which runs through this Bill is that of terrorism. Government come here to legislate and abolish terrorism but, on the other hand, what do we find? We find that it is terrorism and intimidation which are the guiding principles of this Bill. If you want to confiscate property, if you want to levy fines and realise them in the most extortionate manner, it is nothing short of intimidation. Sir, in this century, to pass such legislation, specially through this Assembly, is simply an intimidation of the whole country and a challenge to rise against this terrorism. The fourth principle which runs through this Bill is that of suppression of justice and equity. You do not allow appeals to the High Courts, you stop civil actions when you confiscate property and you do not leave any remedies for those poor people who do not intend to do any act of civil disobedience. It is only a sort of panicky legislation, and why? Is there fear of any war on the frontier? Is there not peace in India and is there not sufficient army? What is it that you want? Without any rising, without any rebellion, you simply want to crush the spirit of the country and to destroy the civilisation which exists in India. The fifth principle underlying this Bill is the arresting of India's progress in every line, in every walk of life and in every way, in trade, in industry and even in education. You gag public speeches, and writings in the Press, even movements in public places you stop and you check every form of liberty which so long Indians have enjoyed under the peaceful British rule. Sir, the suppression of the Press has been the principle for some time of British rule in India, but at present what we find is that it will be absolutely impossible for any paper to comment on actions of Government or even of Government officials, even in their individual capacity. If you want to stop our lips, hands and feet in every way and tie us down to your orders, it will be absolutely correct to pass this Bill into an Act, otherwise not.

Sir, after enumerating these principles which actually underlie this Bill I will now enumerate the principles of criminal jurisprudence which they set at naught. The first is that elementary principle which you find in every system of criminal jurisprudence, that every person is presumed to be innocent. In every clause of this Bill what we find is that it will be not the business of the Crown to prove a man guilty, but it will be for the man to prove himself to be not guilty.

An Honourable Member: That is the case in France.

Mr. Muhammad Azhar Ali: I do not care what happens in France. I stand in India and I have to deal with British justice. I do not care for what the French people do or what the French Government are doing. To my friend it may be all right to go to France if he considers that country to be more salubrious than India, but it is only British rule that

[Mr. Muhammad Azhar Ali.]

I want to stay under and fight my battle in my own country. The next principle is the principle of *mens rea*, that is, a guilty mind, which is the root of criminality and which has been absolutely neglected and given up in this Bill.

The third principle of Criminal Law is that burden of proof should be on the prosecution—unless it is proved or it appears to a certain extent, *prima facie* that there is some criminality in the offence. That principle also has been absolutely abrogated. Sir, I find that this enactment, even if put on the Statute-book, it would not uproot the civil disobedience movement. I challenge my friends on the Treasury Benches to show that there is a single provision in the Bill to restrict civil disobedience. If a person does any act, not with the intention or the motive of doing civil disobedience, still he will be punished. Is that to restrict civil disobedience? I submit not. At the same time, there are sections about the boycott of public servants. Is the State to guard the rights and privileges of the public servants alone? Is the State not to guard those who amongst the public want to help the Government? There is not a single section to restrict the civil disobedience against the public at large, it is only a form of vengeance on the people. If an ordinary man in the street wants to help the Government and if a Congressman goes to him and wants to behave towards him as they say in the Bill and to talk of taking measures of civil disobedience or some kind of boycott, there is nothing absolutely in the Act to prevent that man. They have taken in this Act certain clauses of English Statute and incorporated them, but I am sorry to mention in this House that though the Statutes may be all right for England, we have not even provided in this Bill any safeguards which exists in those Statutes there; for instance, when you say loitering in the public street will be punished. I submit, in the English Statute, the manner and number of people loitering is also mentioned, and a necessary condition precedents, but there is absolutely nothing in this Act which makes only that kind of loitering an offence. The fourth and the last is the provision of confiscation of property. Those people who know the history of India will support me that it was after the Mutiny alone that confiscation was the order of the day. But we find today after 150 years' rule of the British Government—a civilised rule—that confiscation of property is made the rule of the day by this Ordinance Bill. This monster of a Bill which had its creation in the Simla Session and which has unfortunately lingered on in spite of the attacks that were made by public representatives—it has survived and survived, I must say, again, with a vengeance. This will be only an index of the relation of the rulers and the ruled. I appeal to the Treasury Benches to think what the world outside will think of us Indians: after 150 years of civilized British rule, is this the condition in which they find India? Is this the education which they gave that has brought about such state in the country? Is this the reflection of your civilisation in the country which you have ruled for 150 years? It may be all right for your present purposes, when you are going to stifle our industries as well by the Ottawa Agreement, that you want to stifle our independence; now it may be all right to crush us between these two machineries, but probably this will linger on in the minds of Indians and in future generations: and I would appeal to the Honourable the Law Member and the Honourable the Home Member . . .

The Honourable Sir Brojendra Mitter: You appeal in vain.

Mr. Muhammad Azhar Ali: to reconsider this Bill and act according to the principles of criminal jurisprudence and not according to vengeance.

Mr. C. S. Ranga Iyer: Sir,

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Are you likely to take some time?

Mr. C. S. Ranga Iyer: I will finish my speech in ten minutes. I thank you, Sir, for asking me whether I would take some time. My object is to finish this Bill today as suggested by you yesterday, so that we might go on to the Ottawa issue and prove to my friend from Lucknow whether we propose to "stifle the industries" of India or not, to use his own expression. The actual experience of a calamity is less fearful than a prospective view of it, and when the Ottawa issue comes, I will be able to show whether our industries will suffer or will not suffer as I have had the opportunity of studying this question sitting late hours into the night and in Committee by day for full fourteen days. Now I would rather deal with something different from Ottawa, something that strikes at the liberties and rights of our people here. The Ottawa Agreement, in my opinion, if closely examined, is calculated to promote Indo-British co-operation in trade matters, whereas this Ordinance Bill is going to strike at the root of our very existence. These law and order people, so wrote Lord Morley to Lord Minto, are sometimes responsible for the "fooleries of history"; and if I may parody Tennyson I can only say, with apologies to that great poet:

Whatever fooleries of law
Home Member Haig assume,
Our work is ours,—the single note
From that deep chord which Gandhi smote
Will vibrate to the doom. . .

Sir Abdulla-âl-Mamûn Suhrawardy (Burdwan and Presidency Divisions: Muhammadan Rural): What poem is that?

Mr. C. S. Ranga Iyer: "England and America in 1782" by Tennyson. I would say here, "India and England in 1932"

An Honourable Member: By Ranga Iyer. (Laughter.)

Mr. C. S. Ranga Iyer: Yes, with apologies to Lord Tennyson. I will respectfully but anxiously warn the Government and appeal to the Home Member to instruct all those out in the country who happen to be their officials and officers not to override the stunt of law and order, not to ride this Ordinance Bill to death and rough-shod over the feelings of an exasperated people. Much depends on the operation of a bad measure: If a bad measure is operated in a good way, it will not be so bad as it looks at present. Sir, with these words I conclude, once again appealing to him to instruct Local Governments, to instruct local officers, the men on the spot, not to play with the lives and liberties of a liberty-loving people

Sardar Sant Singh (West Punjab: Sikh): Will you then accept the law?

Mr. C. S. Ranga Iyer: My Honourable friend from the Punjab asks me "Will you then accept the law?" I have opposed the Bill, and I still oppose the Bill. I know owing to absenteeism of a most deplorable kind on this side of the House, this Bill is going to be passed into law. I know the law will legalise despotism. (Hear, hear.) That is why I oppose it, but I want the Government, if they do not want to disgrace themselves out in the country, to inform the men on the spot not to abuse the law further than they would like to have it abused. (Applause.)

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

The Assembly re-assembled after Lunch after a Quarter Past Two of the Clock, Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

Mr. S. C. Mitra: Sir, I oppose the passing of this Bill. We have tried in the course of this long debate to make some improvements in this drastic measure, but we have failed. I think the Government fail to appreciate the attitude which actuates us in opposing such measures. It is no pleasure for us to oppose Government measures all along, even when we find that ultimately we cannot gain anything. The time has come when Government should seriously think why this present state of affairs has manifested itself in India. The connection of the Indian people with the British people is not an affair of a few years. The two nations have been in close relationship for more than a century and a half. It was natural that in the beginning of the British connection misapprehension should arise about the attitude of one towards the other. But we find that in the earlier years of British connection, there was contentment and mutual admiration. It is only in the last 20 years that the whole country is seething with discontent, and it admits of no denial. True statesmanship does require that we should go into the inner meaning of the present state of affairs. It has been found that the conditions in the villages, not to speak of the unemployed educated people, have reached their limit. The exploitation that had been carried on for years has brought the people to the verge of starvation, and any attempt merely to suppress the popular discontent will not tend to any lasting result. That is one aspect which we on this side of the House wish to bring to the notice of the Government.

As regards this particular legislation, a mere reading of the clauses may not make it evident how, in the day to day administration, these apparently innocent looking clauses are destroying the peace of the illiterate villagers. Discontent was first confined to the educated classes, but legislation of the present kind is going to the very basis of society, and even innocent and illiterate villagers in remote parts of the country will be affected. My Honourable friend, Sardar Sant Singh, has quoted authorities and I can quote from the great English political philosopher Burke himself as to what conditions justify even extreme steps for a nation. But today I do not want to deal with those general principles nor shall I go in detail into the clauses, because we have done it for the last fortnight. I shall confine my remarks to the Press clause in some

detail. As regards clause 2, as I have said, we in Bengal are not affected at all. Clause 8 deals with tampering with public servants. In these days of unemployment I do not know even the Congress agitator or civil register will be successful in carrying out their object. As I have said many a time, these clauses are not useful or even necessary. But I should like to submit to the House how the application of these innocent looking clauses will hamper the people. Clauses 4 and 7 are very wide and will affect all classes of people. I shall not deal with those clauses now. Let me say something about the clause which deals with the Press—clause 16. When it is expected that India will have a better constitution, is it good even in the interests of the Government to alienate the sympathies of the Press? In the coming constitution, those who will be on the Government Benches as well as those on the Opposition will greatly need the full co-operation of a free and independent Press. I sincerely believe that the present piece of legislation will greatly and seriously hamper its work. Let me quote from my own personal experience.

We sometimes hear in this House of the abuses by the police and other officers. Last time when I had been to Calcutta, I made an endeavour to ascertain the actual facts from authentic reports so that we can place them before the public. The enquiry was made by a gentleman who served in the army during the last war; he was a temporary Captain. I have his report before me, and, if necessary, I shall produce it. When I got the report, I wanted all those things to be published in the Press, because that was the easiest way to draw the attention both of the Government and the public. It is not unusual that high Government officials who are far distant from these localities are not in touch with the daily administration. So with that purpose I asked the gentleman to have it published in the Press, but every Press in Calcutta refused because of the Ordinances, though the gentleman had accepted responsibility for the statements. This is the hardship that will happen if this drastic legislation, which has been in force for the past 10 or 11 months, under the Ordinance regime, is passed into law. I should like to put on the table* for the consideration of the Members some extracts from that report, as to how the abuses occur and how innocent people suffer. As I said before, it is both to the interest of the Government as well as of the people that they should know what is actually happening. The report is in Bengali. He gives instances under 28 categories of the illegalities that are being committed in the villages in the name of law and order. I shall only read a few of them.

I am speaking of two thanas, in the Tamluk Sub-Division of the District of Midnapore. This gentleman is a well-known man. He personally visited 16 villages, viz., Kashipur, Dandipur, Dwaik Bari, etc. For the realisation of punitive taxes in the villages recourse was taken to kicking and other physical inflictions and sometimes they went so far as to give villagers a good ducking in the village ponds. The boys were beaten in the presence of their father and the parents were tortured in the presence of their sons and daughters. The furniture of the houses were broken. Paddy and rice were looted from the granaries known as *golas*. The wooden house doors and windows and even the ploughs were used as fuel by the police stationed in villages. Houses were razed to the ground and, in several places, burnt to ashes. He also refers to oppression on women. He gives instances of two women on whom rape was committed. I have here their photos together with their statements

*Placed in the Library of the House.

[Mr. S. C. Mitra.]

and thumb impressions which I place on the table* of the House for the inspection of Honourable Members as well as of the Government. It is known that in Eastern countries chastity is so highly valued that when a woman loses her chastity, she is outcasted. Therefore, no woman in India will ever make a false statement that rape was committed on her. I read one of them. In the statement, she says, her name is Kusum Kumari Mondal. On the 15th September, on Thursday night, she was sleeping with her husband. At about midnight, a contingent of police came and took away her husband and all the male members from the adjoining house. Sometime after, her brother-in-law alone returned. Afraid to live alone, she went to her brother-in-law's house. She was in bed with her sisters-in-law and other females when a Pathan police came and again took away her brother-in-law. That police man came back and with the help of a torch light picked Kusum and forcibly dragged her to her house and beat her, when she screamed, gagged her, and committed rape on her. Her thumb impression and statement are laid on the table* of the House. Another case of rape is that of Sushila Bala Pradhan of Sutamata. I place also her statement with thumb impression on the table* of the House. To save herself from police, she took shelter in the house of another woman, Puti, a neighbour, who was not assessed with any punitive-tax, because she was too poor. The police knocked at the door and asked if there were any volunteers in the house and wanted to see the house and personally satisfy themselves. They opened the door. Instead of looking for volunteers, they closed the door and forcibly thrust Janaki and the other female into another room. Then she was threatened and raped. These are the statements of the women and there are their thumb impressions also. I place them on the table* of the House so that Honourable Members can see them if they want to. There are here six other statements of Khemankari Banick, Gimbala Roy, Bilashini, Parul Bibi, Bishnu Maiti and Saraswati Pal who definitely allege that attempts were made to outrage their modesty. I shall not go into details. The statements are in Bengali.

Now, I shall deal with cases of wanton destruction of property; I shall only read a few. On the 28th September, 1932, in the village of Hadia, in the house of one Purna Chandra Das, the police destroyed everything, not sparing even religious books, co-operative bank accounts, and the plough was also burnt. Here is a picture of that. (Shows the Photo). Then there is another photograph—it is of Kashipur—of the house of Hirday Nath Das, Pleader, showing how the Pathan police were cooking their food including fish and meat and how they destroyed some of the properties, and their family "Laxmi Thakur" was removed from the pedestal. That is a photograph to demonstrate how it has been done. There is another. The time of occurrence is 10th September, 1932. In the house of Mahendra Nath Jana of Dalimba Chauk, Sutamata P. S. All his moveable properties were looted, and even the image of the goddess "Laxmi Devi" was thrown away from its place. The other is about the occurrence of the house of Jogendra Nath Kalsa of Dundipur on the 22nd September, 1932. Here the District Magistrate, Mr. Burge, and the S. D. O., Mr. Richardson, were also present when the police destroyed their granary and spoilt the paddy collected there. This is the photograph of that place.

*Placed in the Library of the House.

(Shown.) Here is another case where, in the village of Bar-Basudebpur, in the house of Brojalal Kniti, the Bhagwat-Geeta was torn to pieces and put into the boiling handi, and the man was beaten. This is the statement, and this is the photograph, which will indicate how these things are done.

Mr. K. Ahmed (Rajshahi Division: Muhammadan Rural): These were in the pre-Ordinance days?

Mr. S. C. Mitra: I am giving you the date at every time—September last. In the village of Hadia, in the house of Kartick Chunder Das, the punitive police burnt the teakwood furniture and burnt the doors and windows. In the same village, in the house of Pran Krishna Das, they entered the temple and stole ornaments even from the body of the image of the family-god. I particularly give these instances to show that in eastern countries people are very sensitive when their religious sentiments are hurt in this way, so that the mighty Government at Simla also should know how the day to day administration is being carried on under the Ordinances that are now going to be made law.

Mr. K. Ahmed: Did not the parties file complaints before the Magistrate or lodge information at the police station?

Mr. S. C. Mitra: There are number of pictures taken. I am now showing to the House a few only to prove that we do not draw these pictures from our mere imagination. Here is another case where, on the 24th September, 1932, in the house of Bihari Lal Maiti, for a tax of Rs. 24-9, 320 maunds of paddy were taken away in the absence of male members. Then this is another picture of a place where Swadeshi Khadi is sold, and they have destroyed all these things. Of course they may have a special grudge against the Swadeshi-Wallas. (Photo shown.) This is the photograph of the house of Ajit Kumar Maiti of Dari-Bera, where the doors and windows have all been taken away, and property destroyed. Here is the photograph of a place of the house of Rakhal Chandra Samanta of Hadi where the corrugated tin shed has been destroyed. Here is a picture of a house belonging to Gora Chand Kalsher of Dundipur village where the cottage has been destroyed and all the thatched roofs have been brought down. In the picture here it is so clear—showing how the mischief has been done.

Honorary Captain Rao Bahadur Chaudhuri Lal Chand (Nominated Non-Official): Are these instances of operations during the no-tax campaign?

Mr. Amar Nath Dutt: They are instances of the administration of British justice.

(Further interruption by Honorary Captain Rao Bahadur Chaudhuri Lal Chand.)

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order. The Honourable Member does not yield.

Mr. S. C. Mitra: Sir, I am not yielding. Here is a photograph of a place where all the trees, banana trees, were cut, etc. How all these things are necessary for the realization of a tax one can easily imagine!

[Mr. S. C. Mitra.]

Here (showing the Photo) on the 24th September, 1932, at about one o'clock, the second officer of the thana, Dharendra Nath Chatterjee, went to the house of Sukumar Maiti for collecting the tax, but he destroyed his thatched house and his walls. This is another picture of a house of Keshab Chandra Mandal of Dundipur where all the ceilings have been destroyed. How the destruction of property or the ducking of a man in the tank helps the realisation of punitive tax has got to be explained. This is another picture of a stationery shop belonging to Nagendra Nath Das where the entire property was destroyed. Now, this is the picture of a pharmacy where all the medicine bottles have been thrown out and destroyed.

The other day, my Honourable friend, Sir Muhammad Yakub, was very anxious for rendering medical assistance to the public servants, but perhaps in a village there is only one pharmacy and that being destroyed—of course the public servants can go to town—all the villagers are deprived of medical assistance at least for months.

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions: Muhammadan Rural): Probably they were induced by the Congress volunteers.

Mr. S. C. Mitra: But that is no reason why the officers of Government should take law into their own hands and destroy the property of these villagers. It might be, as Sir Muhammad Yakub said, that they have been led astray. That may be admitted; but even then, where is justification for such tyranny? I have given instances of at least two occasions where women have been raped and six or seven cases where attempts have been made at outraging the modesty of women, and several cases where the people's religious feelings have been wounded by throwing away their family-gods, and cases where even the District Magistrate was present when some of these atrocities were committed. I place all these things before Honourable Members; there are a few others but I do not like to take more time. I place them all here so that the Government might know that what they consider to be so simple—passing a law here, sitting here in the cool climate of Delhi—is not so simple; these laws are to be administered by unscrupulous officials, and I want to show that the people who are so "perverse-minded" like the Congress people are not the only sufferers, but so many others who are innocent.

Mr. Amar Nath Dutt: Some of the officers here are laughing!

Mr. S. C. Mitra: I do not like to refer to those who, upon hearing all these atrocities, may be laughing. Let them enjoy it to their heart's content. 'When Rome was burning, Nero was fiddling'.

What I say is, that these laws are not so innocent as they look, and day-to-day administration of such drastic laws generally leads to tyrannies. Most of the illiterate people, as Sir Muhammad Yakub said, might have been misled by the Congress people. Even conceding for the sake of argument that they refused to pay the taxes, why should Government officers go beyond the scope of the law? They went there to realise the punitive tax and they should certainly be entitled to do that, but there are innumerable cases to show that for the sake of realising two or three rupees they have destroyed property worth two or three hundred rupees. If in these hard days this sort of administration goes on, I can assure the Honourable the Home Member that no amount of further legislation will

help him. He may have martial law if he likes,—and perhaps the only difficulty in having martial law is that Government are short of military officers. My main contention was that if wide powers are given by any of these sections, they are sure to be abused, especially when some of the officers have the impression, as the Honourable Sir Leslie Hudson did say in this House, that they are in the midst of war and "everything is fair in love and war". So, they are out to punish the people in any way possible, fair or foul. (Interruption.) My friend says, they want to strike terror. If that be the object, then let them do it by declaring martial law or suspending civil laws for some time, but not under the cloak of a law which was formerly an Ordinance for which His Excellency the Governor General alone was responsible and now this House is asked to share the moral responsibility of all those enormities that are being committed in the name of law in these villages in Bengal. Sir, these are the reasons why I oppose this Bill. I have in this report in my hand detailed instances how these two police stations of Sutahata and Nandigram in the district of Midnapore, in Bengal, are being dealt with, but, because of the Press law, it is impossible to ventilate the feelings of the people and give an account of the facts and occurrences that are happening every day. I think it is as much dangerous to the Government as it is to the people to suppress the Press by this drastic legislation and I oppose it.

Mr. Abdul Matin Chaudhury (Assam: Muhammadan): Sir, I have got in my hand a copy of a telegram that was sent to the Private Secretary to His Excellency the Governor of Bengal by the Imam of the Jama Masjid of Chittagong.

Mr. S. C. Mitra: I have already read it in the House.

Mr. Abdul Matin Chaudhury: I understand this telegram Mr. Mitra read out to the House yesterday. It gives a picture of the Ordinance rule at Chittagong and the incident occurred there during the days that the Honourable the Home Member was expounding before this House the exquisite beauties of the Ordinance. I think I had better read out to the House this telegram so that it might attract the attention of the Members that it deserves. It runs thus:

"Grossly insulting searches of about 150 respectable Moslem houses of Alkaran in the town made Wednesday 16th instant on meagre information regarding absconders. Indignities caused to pardanashin ladies, some inside the house and some dragged to considerable distance and exposed in public street after removing male members under arrest to another place. Some pardanashin ladies roughly handled and rudely treated in the name of searches and Moslem males beaten and some grossly insulted. Mosallies stopped from going to mosque. Moazzen of Alkaran mosque threatened with bayonet and revolver to prevent Azan of afternoon prayer. In view of these facts learn great consternation causing bitter resentment and indignation in the Moslem community. This large mass meeting assembled at Jameh Mosque premises on Friday 18th instant at 2 P.M., after Juma prayer under the presidency of Jameh Mosque Imam severely condemns such outrageous deed on innocent peaceful Moslem citizens of town and urges on His Excellency for an immediate inquiry by an impartial Commission of officials and non-officials and for proper and adequate redress."

The Honourable Mr. H. G. Haig: Will the Honourable Member also read out the reply given in the Bengal Legislative Council to these allegations?

Mr. Abdul Matin Chaudhury: No copies were sent to me and I am not aware of them. Sir, I have read out this telegram for the benefit of those of my co-religionists here who are under the delusion that this Ordinance is meant only to deal with civil disobedience movement and only the Hindus will be affected by it. Sir, His Excellency the Governor

[Mr. Abdul Matin Chaudhury.]

of Bengal in the St. Andrew's Dinner testified that the Mussalmans had no share in the terrorist outrages. I am sure, my friend, Mr. Anwar-ul-Azim, will very vehemently protest that the Muhammadans kept themselves away from the civil disobedience movement. Not only that, when Inspector Ahsanullah was murdered, the Mussalmans went to the length of committing excesses on their Hindu neighbours. (Mr. Anwar-ul-Azim: "Question.") My friend, Mr. G. S. Dutt, reminded us the other day of the Bengali adage—"the man for whom you commit theft calls you a thief". The Mussalmans of Chittagong must be pondering over the wisdom of this adage these days. Sir, to give the Government the credit where it is due, it must be said that they are impartial, impartial in the abuse of their power where the Indian community is concerned. Speaking as a Mussalman, I feel that our community has been and will be the worst sufferer under these Ordinances because our power of resistance is the weakest. Under these Ordinances, the Frontier Mussalmans have been terrorised; the Red Shirt movement has been crushed; the Ahrars have been suppressed; the Muslim Press has been throttled; and even in this Imperial City of Delhi, under the very nose of the Government of India, the sanctity of the Muslim mosque was violated. Wherever the Mussalmans have shown any sign of life, activity or vigour, they have been put down with an iron hand and there is nothing to be surprised at this, because when you give this autocratic power to the irresponsible executive, it is bound to be abused. When pestilence like malaria or plague or Ordinance sweeps over the country, it makes no discretion of Hindus and Muhammadans and I hope my friends who are going to support this Bill will ponder over this. It must be apparent to the Honourable Members that my attitude towards the Bill is one of uncompromising opposition, because I agree with most of my friends on this side of the House that the remedy suggested will not cure the disease. If, Sir, I am permitted to draw an analogy from the medical science to which most of the Honourable Members have resorted for analogies, I would say that the Honourable the Home Member has failed to diagnose the temperature in the body politic of India. Finding, Sir, the rise of temperature in the patient, he has prescribed the quinine of the Ordinances, sugar-coated, if I may say so, with the genial smile of the Honourable the Home Member. But this, Sir, is a quack remedy. What India is suffering from is consumption, slow gradual decay of the vitality of the nation, the vitality which has been sapped and undermined by years of misrule and maladministration. It will not merely do to put down the temperature by an injection of Ordinances. What is necessary is the revitalising elixir of complete self-government, if we are to effect a radical cure. Quack remedies will only aggravate the malady. This civil disobedience movement owes its origin to misrule and maladministration, as I have said, and it gathers strength and momentum because of the continued stifling of the legitimate aspirations of Indians. The remedy for the present state of affairs does not lie in crushing the civil disobedience movement, but in putting an end to that system of administration which gave rise to the civil disobedience movement. For a radical cure you must deal with the ultimate causes and not merely with the approximate causes.

Now, Sir, what are these Ordinances? They restrict our freedom of movement, ban our freedom of association and gag our freedom of expression. So it practically means the strangulation of all healthy political

activities in the country. And yet the Honourable the Home Member thinks that we are so demoralised that he asked for our co-operation in passing this Bill and forging fresh fetters for our bondage. I for one refuse to be made a cat's-paw of the bureaucracy. It is their narrowness of outlook and short-sighted policy which has brought about this crisis in the country and it is no business of mine to draw their chestnuts out of the fire and help them in administering the country. Sir, I claim no originality for the remedy that I suggest; it has been placed before the House times without number. The remedy lies in granting full responsible Government, federation or no federation. These Honourable Members who are occupying those Treasury Benches have no right to be there,—those seats belong rightfully to the elected representatives of the people. They will have to be ousted from those seats. Those gentlemen who are sitting behind them have also no business to be there. That entire block ought to be chucked out of the House.

An Honourable Member: Then who will remain in the House?

Mr. Abdul Matin Chaudhury: We will remain, Sir. If that means capitulation, I am afraid, the Honourable the Home Member
3 P.M. will have to swallow that bitter pill sooner or later; and the sooner he does it, the better for all concerned.

Sir Hari Singh Gour: Sir, with a great deal of reluctance, but with a certain degree of confidence engendered by a recent ruling of the Calcutta High Court upholding your decision given the other day, I wish to recall my objections to this Bill; and, in doing so, I shall categorise the points upon which I invite your ruling. If you turn to clause 13 of the Bill and the various provisions which are intended to be added to the Criminal Law Amendment Act (XIV of 1908), you will find under the proposed section 17B, after the forfeiture has been incurred and made, an adjudication under sub-section (6), that is, a limited adjudication:

"Where any such representation is rejected, the representation, with the decision thereon, shall be forwarded to the District Judge, in the case of a decision by a District Magistrate, or, to the Chief Judge of the Small Cause Court, in the case of a decision by the Commissioner of Police, and no order of forfeiture shall be made until the District Judge or Chief Judge of the Small Cause Court, as the case may be, has adjudicated upon the representation."

Then, sub-section (7) says that the decision of such Judge shall be final. A point was raised yesterday by one of the occupants of these Benches that the use of the word "final" precludes an appeal and an application for revision to the superior Courts; and my Honourable and learned friend, the Leader of the House, assured him, and through him the House, that the finality of the order mentioned in this sub-section would not preclude the filing of an appeal or the making of an application for revision. My Honourable friend, the Law Member, nods his head. Well, I am then fortified by the nodding of my friend's head in my view that he did not mean it and that final means final. But he will have his chance to translate his dubious nods into audible words. In the meantime I may be permitted to state my objection. There have been rulings by the High Courts and by the Privy Council, and the cases are all collected in the latest case that I have been able to get, namely, I.L.R. 4 Rangoon, p. 508, and the point under discussion is at page 511. The point that arose in the Rangoon High Court was that under the Land

[Sir Hari Singh Gour.]

Acquisition Act, the decision of the Chief Court, as the Rangoon Court then was, was made final; and the question arose as to what was the meaning of the word "final". Did it preclude an appeal to the Privy Council or did it not? And the language of the learned Judges at page 511 is as follows:

"It has been argued for the appellants that the word 'final' here used means nothing more nor less than the same word that is used in the Code of Civil Procedure as the opposite of interlocutory. In my opinion, however, and having regard to the special statute, the word 'final' is used in quite a different sense, and the word 'conclusive' represents its real meaning."

Then they go on to cite several cases including Lord Macnaughten's judgment in the Privy Council case and fortify their arguments which they have stated. And the conclusion to which they arrived was that whenever in any special Statute the word "final" is used, there can be no appeal. And their Lordships of the Privy Council have further said that it is the policy of the law that where the Legislature did not give a direct appeal, there cannot be an interference by the superior Courts in an indirect manner through the backdoor of revision.

Now, these were the cases that confronted us and do confront the learned occupants of the Treasury Benches. On the last occasion, in connection with this Bill and another previous occasion in connection with another Bill of the same character, I raised the objection that portions of this Bill or portions of that Bill which precluded the subject from filing an appeal to the High Court and took away the jurisdiction of the High Court were *ultra vires*, and you, Sir, upheld my objection. Since then a case arose in the Calcutta High Court. Unfortunately I have not been able to get the full facts of that case, because the only telegram I have is the Associated Press Telegram, dated the 2nd December, 1982: it came this morning and I will read a summary of the decision of that High Court:

"Treating petition of appeal filed by Manmatha Nath Biswas from jail as application under section 107 of the Government of India Act, Chief Justice and Justice Pearson at High Court today directed acquittal of appellant (Biswas) who was convicted by S. K. Sinha, Chief Presidency Magistrate, sitting as Special Magistrate under section 19(f) of Arms Act read with section 34 I. P. C. and sentenced him to two years' rigorous imprisonment. Chief Justice in course of judgment observed that on Magistrate's own view of fact, Lordship did not know how he could in law convict accused under section 19(f) Arms Act as in Lordship's view this conviction rested upon no evidence and Lordship think it should be set aside under section 107, Government of India Act. Neither Lordship could convict appellant on charge of abetment of offence in view of evidence."

The point that arises in this case is this: The Government have made the decision of the District Judge as final under that clause. The Privy Council and all the High Courts have held that the word "final" means conclusive; in other words, whenever the Legislature says that a certain thing is final, it precludes the possibility of an appeal; and Their Lordships of the Privy Council have held that when there is no appeal, there cannot be any revision, because the Courts cannot do indirectly what has been directly forbidden by the law

The Honourable Sir Brojendra Mitter: Has my learned friend any authority for the astounding proposition that where there is no appeal there is no revision?

Sir Hari Singh Gour: You want that? It is a case reported in 12 Bombay and I will give the very words shortly. I am quoting from the words of the High Court Judges. Now the position is this: we are driven to this position. The Government propose to enact in this Bill a clause making the decision of the District Judge as final and the question, therefore, arises as to whether the jurisdiction of hearing an appeal by the High Court is not excluded by the provisions of this Act. I have read to you the summary of the judgment of the Calcutta High Court. Let me recall to you the facts of that case so far as I have been able to gather them. I speak subject to correction, because my Honourable friend, the Home Member, must be in full possession of all those facts

Mr. K. Ahmed: Sir, may I ask a question? Suppose a First Class Magistrate fines you five rupees for a certain offence against the byelaws that you commit and then there no appeal lies against his order, because he is a First Class Magistrate; but there is a revision. Is that not so according to the Criminal Procedure Code on which you are one of the authorities?

Sir Hari Singh Gour: I am afraid my friend has not understood the point and I am not, therefore, able to reply to his question.

Mr. K. Ahmed: You cannot give reply, because you are caught and cannot get out.

Mr. Gaya Prasad Singh: This is a law point you cannot understand.

Sir Hari Singh Gour: My learned friend asked me, where is the authority for this astounding proposition? Here is the authority for that proposition. Ameer Ali's Civil Procedure Code, p. 460, and the footnotes give all the cases. The authority is:

"An erroneous decision of a Court having jurisdiction can only properly be corrected by appeal; and if the right of appeal does not exist, the same results which an appeal would give cannot be arrived at indirectly."

Mr. K. Ahmed: What is that again, the Civil Procedure Code?

Sir Hari Singh Gour: Now the point is very briefly this: the decisions of the Courts are as I have stated; and the use of this word "final" would, therefore, preclude not only an appeal but a revision. But I go further. If the intention of the clause by using the word "final" was to prevent an appeal being filed, then, I submit, it contravenes the provisions of the Government of India Act; and my authority is the latest ruling of the Calcutta High Court; and also the ruling which you, Sir, gave the other day. I submit that this Legislature, as a subordinate body, has no jurisdiction to take any case in which the participation of a judicial officer is invited from the cognisance of the High Court under section 107 of the Government of India Act. The position that has been created by this enactment is so absurd that I shall in a few moments explain it. All the Chartered High Courts are protected by section 107 of the Government of India Act under their power of superintendence, direction and control. Consequently they can defy anything that this House or the other House may do. But this Act is an all-India Act; it applies to our Frontier

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Province and other provinces; they have got no charter; the High Courts there are constituted by local Acts, and though in these local Acts the power of superintendence has been given, the fact remains that being Acts of a subordinate Legislature, even more subordinate than this, those Acts cannot give the non-Chartered High Courts the jurisdiction which the Chartered High Courts possess under section 107 of the Government of India Act. The position, therefore, under this Act would be an anomaly. Those who live under the direction of the Chartered High Courts can go to the Chartered High Court and defy this law and say "we come under section 107". Here also the attempt was made that whenever there is a trial by a Special Tribunal constituted under the Bengal Act, there would be no appeal; the decision would be final except in the cases where the sentence is of longer duration, and the Calcutta High Court held that they have jurisdiction in spite of the provisions of the Indian Act. But other Courts will be bound by the provision of this Legislature, because they have not the protection which is given to the Chartered High Court by section 107 of the Government of India Act. You are, therefore, giving some people justice and withholding it from the others. Is this fair? Is this just? Consider it and you will at once see that this objection that I am raising is not without force. This is my first point.

The Honourable Sir Brojendra Mitter: Will the Honourable Member kindly formulate what precisely his objection is?

Sir Hari Singh Gour: I hope, Sir, I have made my point clear to you, but I will now try to make it clear to my Honourable friend on the other side.

The Honourable Sir Brojendra Mitter: I do not want my Honourable friend to make the point clear to me, but I want him to formulate his objection that this Bill is *ultra vires* of this Legislature, or whatever his objection may be.

Sir Hari Singh Gour: The objection is that by enacting that the decision of the District Judge is final, this Legislature would be excluding the right of appeal which must be expressly given, and unless it is expressly given, it cannot be impliedly given by this Act, and so far as the Calcutta High Court is concerned, the Calcutta High Court shields itself by saying that though there is no right of appeal, it has the general right of power of supervision and, therefore, can hear an appeal. I hope the point is now quite clear. That being the case, the Calcutta High Court and the other Chartered High Courts will possess the appellate jurisdiction over all decisions under this Bill when it becomes law, but the same relief will be denied to the other Courts which are not chartered and established under the enactments of this country. That is my point.

My second point is this. I have been stating in this House for some years in connection with the legislative activity of the Government of India that it is against the fundamental rights of the British subjects that the Legislature should enact forfeiting a man's property without giving him a remedy in the civil Court. It would be an arbitrary executive act which can only be justified by the State when it is in a state of war.

Confiscation of private rights is only permissible when the State is at war and not in a state of peace. I pointed out the other day that section 65 of the Government of India Act supported my view, and I further added that, apart from section 65 of the Government of India Act, this Legislature cannot do what the British Parliament cannot, and this Act being passed by the British Parliament, it is not competent for this Legislature as wielding authority from the British Parliament to perform an act and confiscate property which it is incompetent for the British Parliament to confiscate without recourse to the civil law. That was the point I made. I know what my Honourable friend on the other side will say. I know all the cases from A to Z on the subject from the earliest days of Amir Khan. The last case was that of Bugga. There Sir John Simon appeared. It was a case tried by the Martial Law Tribunal. Sir John Simon argued that under section 65 of the Government of India Act, the Indian Legislature had no authority to constitute a Special Tribunal for the trial of certain political offences, but Sir John Simon did not argue the other point, namely that neither the Indian Legislature nor the British Parliament had the right of taking away the right which had been settled under the Act of Settlement to which I referred the other day. That he did not argue. Their Lordships of the Privy Council referred only to section 65, and, in so doing, they said that it was perfectly competent for the Indian Legislature to say by whom a person should be tried. There is the original Court A, and it is competent for the Indian Legislature to establish Court B for that matter. Their Lordships did not go into the further question that I have raised, and it has never been decided by any Court in India or England, that the Act of Settlement, to which I referred the other day, which embodies and incorporates the bundle of rights which constitute the fundamental rights of the English citizen and, therefore, constitute the fundamental rights of all British citizens wherever they are domiciled, cannot be derogated from by any Act of Parliament or by any Act of a subordinate Legislature, because the King and the people have entered into a contract and the contract was allegiance on one side, preservation of these rights on the other side. That being the position, it is not competent for any tribunal, much less for the Indian Legislature, to take away those rights which constitute the very basic rights of every British subject. That is the point which I wish to raise here and which I submit, is not covered by any ruling. My friend will cite Bugga's case. I have read that case over and over again, and may I be permitted, in passing, to mention that, with the utmost deference to Their Lordships of the Privy Council, this House will recall how often we had the misfortune to overrule Their Lordships' decisions in this House? I remember at least half a dozen cases

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member admits that this House has the power by legislation to override the decisions of all High Courts in India.

Sir Hari Singh Gour: This House has got the power of overriding the decisions of all High Courts including the decisions of the Privy Council, but this House has not got the right of overriding the *Habeas Corpus* Act, upon which is based the oath of allegiance and loyalty to the Crown. In fact, as I have said before, Their Lordships' decisions have been overruled by this House in several cases. I remember at least 6

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or 7 cases, but every second or third year we have the misfortune to do that. We can overrule all decisions, but we cannot overrule, and the British Parliament cannot overrule, the fundamental rights created by the *Habeas Corpus* Act and embodied in the Act of Settlement to which I made more detailed and pointed reference in the course of my argument the other day and to which my Honourable and learned friend has not yet vouchsafed any reply. I am only anticipating the reply that he would give, and let me tell him in reply that he is leading a forlorn hope if he thinks that he can shelter behind 1, Lahore or Amirkhan's case, because they have no application to the objection I am raising here. My point is this, that is not also covered by any Indian case, or an English case.

The third point I raised the other day was that Government propose by clause 18, sub-clause 17F, page 7, of the Bill, to protect all officers acting *bona fide* for anything in good faith done or intended to be done under the said clauses. The language is:

"for anything in good faith done or intended to be done under the said sections. . ."

The point I make is this. There is no law here, and no law in England or anywhere else that can tell a man, "You can go and pillage and plunder anybody you like, but so long as you act *bona fide*, however illegal your act may be, you are protected in advance of your illegality". I explained the other day at some length how a clause in favour of indemnity in advance was *ultra vires*, and it has long been settled in England that such a clause cannot be legitimately inserted in an Act of Parliament. If my Honourable friend on the other side consults any book on constitutional law, he will find ample authorities for that proposition. And we stand here upon a very higher pedestal than mere authorities of decided cases. This House, as the custodian of the rights and liberties of the people, must be most unwilling to give indemnity in advance to any servant without reference to his acts, whether they are legal or illegal. Protection, therefore, that has been given for his illegal acts under this clause is, I submit, too wide and cannot be conferred upon him under any constitutional law or practice. These are my points of order.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Before the Honourable Member resumes his seat, the Chair should like him to state definitely in the form of issues, the points on which he desires the ruling of the Chair.

Sir Hari Singh Gour: The points of order are these:

1. Whether this Legislature has authority to make a judicial order, passed by the District Judge, final?
2. Whether it is competent to the Indian Legislature to enact a law enabling the executive to confiscate property without compensation and preclude the party aggrieved from challenging its legality and propriety in a Court of law?
3. Whether it is competent to the Indian Legislature to enact a law indemnifying in advance the executive officers and servants without reference to the legality of their acts?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Chair understands that the Honourable Member's points of order are three, and they could be put in a very few words. The first point is, whether this Legislature has any authority to enact that the decisions of the District Judge and the Chief Judge of Small Cause Court are final. The second is, whether forfeiture of property with or without compensation, without providing a remedy to appeal to the Courts is within the competence of this Legislature; and the third is, whether the indemnity clause can be enacted by this Legislature before any cause for it has arisen. Is that so?

Sir Hari Singh Gour: Yes.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): In the first place the Chair should like to remark that it would have been better if the Honourable Member had raised each of his points of order when the relevant clauses were before this Legislature. It is perfectly true that our Rules and Standing Orders give wide authority to raise a point of order at any stage and at any time but, in the opinion of the Chair, it would have been more appropriate if each point of order had been raised when the relative clause was under consideration.

The Honourable Member contends that under section 107 of the Government of India Act, this Legislature has no power to make the decisions of subordinate Courts final. His contention is

Sir Hari Singh Gour: As against the power conferred under the Charter Acts?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Chair is trying to place before the House in clear perspective the issues involved before asking whether any Honourable Member wishes to speak on them. Section 107 of the Government of India Act on which the Honourable Member relies uses the word "superintendence" only. The Chair knows of Acts passed by Local Legislatures enacting that the decision of the Chief Judge of the Small Cause Court shall be final. Section 107 of the Government of India Act merely confers the power of "superintendence", and it appears to the Chair that by the enactment of the proposed clause, no bar is placed against the exercise of that power. If that view is correct, the point of order on the first issue would not stand. Most part of the Honourable Member's observations in support of the points of order were arguments on merit. Whether forfeiture of property should be allowed by this Legislature within the powers conferred upon it without an appeal or a reference to Courts, appears clearly to be an argument on the merits of the case. I have not heard the Honourable Member cite any authority in support of his contention that this House has not the legislative power to pass the clause in its present form. The same thing applies to the third point. The Chair has not been told on what authority the Honourable Member contends that the powers of this Legislature are restricted in the matter of providing an indemnity clause in a Bill in anticipation of claims which may arise hereafter. On these issues the Chair would be glad to hear any Honourable Member who may desire to address the House.

The Honourable Sir Brojendra Mitter: I have heard more extraordinary propositions of law this afternoon than I have during the whole course of my practice at the Bar. The first proposition which my learned friend, Sir Hari Singh Gour, lays down is that if there be no appeal there is no revision; and in support of that extraordinary proposition he cited a passage from Sir John Woodroffe's book on the Civil Procedure Code. The passage is this:

"An erroneous decision by a court having jurisdiction can only properly be corrected by appeal and if the right of appeal does not exist the same results which an appeal would give cannot be arrived at indirectly."

Sir Hari Singh's suggestion was that the results of an appeal must be the same as the results of a revision. They are not the same and that is all the passage means. The proposition laid down by my learned friend was if there be no appeal there could be no revision. That proposition I contest. Revision lies only when there is no appeal. They cannot exist concurrently. In support of this I shall only draw the attention of the House to section 115 of the Civil Procedure Code, which is the Revision section. It says this:

"The High Court may call for the record of any case which has been decided by any Court subordinate to such High Court and in which no appeal lies thereto and if such subordinate Court appears to have exercised jurisdiction. . .";

then the various grounds are given. Therefore the right of revision exists when there is no appeal. There cannot be a concurrent right of appeal and revision. The proposition stated by my learned friend was that if there be no appeal, there could be no revision. Section 115 lays down that revision can take place only in cases where there is no appeal. I think that disposes of that wonderful argument. I come to the next point. My friend says "final" means conclusive. Who ever said it did not? Who ever said that when we said that "such decision shall be final" there was an appeal? I made it perfectly clear yesterday in answer to Mr. Lalchand Navalrai that appeals were intended to be barred by the use of the word "final". My learned friend's argument is this "Oh, this Legislature has no power to bar an appeal". I shall only remind him of a section in the Presidency Small Cause Courts Act and there is a similar section in the Provincial Small Cause Courts Act. I have not got the Provincial Act with me at the moment. The Presidency Small Cause Courts Act is an Act passed by the Indian Legislature. Section 37 says:

"Save as otherwise provided by this Chapter or by any other enactment for the time being in force every decree or order of the Small Cause Court in a suit shall be final and conclusive."

This was passed 50 years ago. The Indian Legislature laid down that every decree or order of the Small Cause Court should be final and conclusive. Sir, if the Legislature could make a decree or order final and conclusive in 1882, what has happened during these 50 years to take away that right of the Legislature? Why cannot we say now that in certain cases there shall be no appeal, as this Legislature said in 1882? Before I go away from the passage cited by my learned friend from Woodroffe's book, I find, after the passage which he read out that the same results cannot be obtained by revision as by appeal, there is a footnote and it says:

"Clause 15 of the Letters Patent does not give a right of appeal where none exists at all."

That is really what was decided in the case quoted—that where the Letters Patent did not give an appeal under section 15, in that particular case no other appeal lay. Sir, this Legislature, under section 65 of the Government of India Act, has got plenary powers of legislation, subject of course to the limitations which are mentioned in the Government of India Act itself. The Legislature can say that in certain cases there shall be an appeal and in other cases there shall be no appeal. This would not be *ultra vires* of this Legislature. Sir, I have drawn the attention of the House to section 37 of the Presidency Small Cause Courts Act. I now draw the attention of the House to the Criminal Procedure Code, which was also an Act passed by this Legislature. Section 413 says this:

"Notwithstanding anything hereinbefore contained, there shall be no appeal by a convicted person in cases in which a Court of Session passes a sentence of imprisonment not exceeding one month only or in which a Court of Session or a District Magistrate or other Magistrate of the first class passes a sentence of fine not exceeding Rs. 50 only."

Here is another instance where this Legislature says that in certain cases there shall be no appeal. There are numerous instances (*Mr. Muhammad Yamin Khan*: "Further on, there are provisions about summary trials"), but I do not want to tire the patience of the House by citing more instances. Sir, the next point of my learned friend is still more extraordinary—about the right of forfeiture without compensation. He not only says that this House has no right to pass any such legislation but even the British Parliament has no right to pass any such legislation.

Sir Hari Singh Gour: "Without compensation, without indemnity."

The Honourable Sir Brojendra Mitter: My learned friend's point, as I understood him, is this,—that neither the British Parliament nor the Indian Legislature can pass any law by which property can be forfeited without payment of compensation. Sir, in my younger days when I began the study of constitutional law one of the first things which I learnt was what is known as the Sovereignty of Parliament. There are two fundamental doctrines upon which the British constitution is based—one is the Sovereignty of Parliament, and the other is the Rule of Law. Sovereignty of Parliament means this that Parliament can enact anything. Our powers are not co-extensive with the powers of the British Parliament, because our Legislature is not a sovereign legislature; it is derivative. The British Parliament can enact anything; we can enact only within the limitations of the Government of India Act. We cannot go beyond that.

Raja Bahadur G. Krishnamachariar (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural): Except that the British Parliament cannot make a woman man, or a man woman, as pointed out by Dicey.

The Honourable Sir Brojendra Mitter: As regards the right of forfeiture without payment of compensation—I have had no time to look up the authorities, but it is an elementary point. I can refer the House to the case reported in 41 Cal., known as the *Comrade* or Mahomed Ali case. What happened there? Mahomed Ali had a copy of a book which had been proscribed. Government forfeited that, and Mahomed Ali went up

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to the High Court to have that order of forfeiture set aside. Sir, that case was heard and decided by one of the greatest Judges who came out to this country, Sir Lawrence Jenkins, and if I remember aright, the case was argued by Mr. Eardley Norton on behalf of Mahomed Ali and the Advocate General represented the Crown. It cannot be said that proper legal knowledge was not brought to bear upon that case.

Mr. S. C. Sen: This point was not raised in that case.

The Honourable Sir Brojendra Mitter: Please hold your soul in patience, Mr. Sen. Even Mr. Eardley Norton had not the temerity to advance the argument that the order of forfeiture was bad because the Legislature had no power to legislate for forfeiture without compensation. The argument on the face of it is so ridiculous that it was not thought of nor advanced. When I mention the counsel who appeared in the case, it is only for the sake of suggesting that if there was anything in a point like that, it could not have escaped the notice either of Mr. Eardley Norton or the Advocate General or Sir Lawrence Jenkins. Then as regards "indemnity in advance"—there again my learned friend said, "you cannot give indemnity in advance". Sir, where does my Honourable and learned friend get his law? Where has anybody, any lawyer, either a constitutional lawyer or a municipal lawyer or any other lawyer said that you cannot legislate for indemnity in advance? Sir, we start with the proposition that Parliament or our Legislature has plenary powers. Unless it is shown that in a certain direction these powers are restricted, they can exercise those powers. My learned friend has not shown any restriction on the powers of the Indian Legislature in this matter. That being so, the powers exist and can be exercised. Sir, my learned friend goes further and says that even the British Parliament cannot do it. Sir, that is about the limit. (Hear, hear.)

Mr. President (The Honourable Sir Ibrahim Rahimtoola): (To Mr. Anklesaria) I trust the Honourable Member will be brief.

An Honourable Member: I rise to a point of order.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order. The Chair is not bound to hear any Honourable Member on a point of order.

Mr. N. N. Anklesaria (Bombay Northern Division: Non-Muhammadan Rural): Sir, my Honourable and esteemed friend, the Leader of the Nationalist Party, has really put his foot in it as he always does when he tries to expound questions about constitutional law. Sir, the Bombay ruling which was cited can be explained by the comments in a case decided only last year in which I myself was counsel. The High Court of Bombay said that it will not exercise its revisionary powers, which are absolutely discretionary powers, in cases where the party aggrieved has got another remedy in law. In that case the remedy open to the party was a remedy by suit. I shall explain in a few words what that case was. That was a case which went up to the High Court in a

revisionary petition from the decision of a sub-judge on clause 15 of the Third Schedule to the Civil Procedure Code. It was a matter of arbitration in which the First Class Sub-Judge under clause 15 refused to file the award. The party aggrieved then took that case to the High Court and the Bombay High Court said that he had no right of appeal under Schedule III of the Civil Procedure Code. Counsel for the aggrieved party said that if that petition did not lie by way of an appeal, it may be treated as a revision petition. The reply was that the High Court will not exercise its revisionary powers, because the party aggrieved has got a right of suit as regards the matter of that award and the party, by invoking the revisionary powers of the High Court, was depriving the exchequer of the amount of court and stamp fees, which he would be obliged to pay if he filed a regular suit.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Chair would like to point out to the Honourable Member that the issue raised by the Honourable the Leader of the Nationalist Party is that the enactment of these three clauses in the Bill is outside the powers of this Legislature. That is the point on which the Chair would allow the Honourable Member to address the House briefly, if he wishes to do so.

Mr. N. N. Anklesaria: The Honourable the Law Member has already expounded the law on the matter. I only wished to bring to the notice of the House the decision of the Bombay High Court.

Sir Hari Singh Gour: Sir, in Forsyth's cases and opinions on Constitutional law, this very point has been the subject of long discussion and he sums up the decided cases thus:

"The right conclusion upon the whole matter seems to be this: Martial law may be justifiably imposed as a terrible necessity, and an act of self-defence; under it there is a suspension of civil rights and the ordinary forms of trial are in abeyance. Under it a man in actual armed resistance may be put to death on the spot by anyone acting under the orders of competent authority; or, if arrested, may be tried in any manner which such authority shall direct. But if there be an abuse of the power so given, and acts are done under it, not *bona fide* to suppress rebellion and in self-defence, but to gratify malice or in the caprice of tyranny, then for such acts the party doing them is responsible."

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order. We have taken considerable time in dealing with this point of order. I want the Honourable Member to give the Chair specific replies to the point the Chair has made. The Chair does not want any further discussion on the merits as to whether these clauses should be accepted by the Legislature or should not be accepted by it. I will give another opportunity to the Honourable Member to point out on what authority he relies that these clauses in the present Bill are outside and beyond the authority of this Legislature. I want nothing more than that. If the Honourable Member has anything more to say, I will hear him.

Sir Hari Singh Gour: On the first point, I have pointed out, with as much clearness as I am capable of, that the High Court of Rangoon has laid down, in a special Statute, where you have the word 'final', which means 'conclusive', and no further proceedings can be taken under it. This is a special Statute; that is the point. My Honourable friend has

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recited from the Civil Procedure Code. What the Government should have said was: Nothing herein contained shall take away the power of the High Court under section 485 of the Criminal Procedure Code to revise an order passed by the District Judge. If my friend wants to make it clear, it will make that point clear. The second point and the third point deal with a constitutional question. I relied on section 35 of the Government of India Act and pointed out on the last occasion—I do not wish to read it again—to the full chapter dealing with the fundamental rights which cannot be derogated from, and they are under the Magna Charta, Chapter IV, in the English Constitutional History by Taswell-Langmead (Eighth edition). In my speech on the last occasion all these points were set out in greater detail and my Honourable and learned friend never gave any reply to them. He cannot now complain

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member should restrict himself to the point to which his attention has been specifically drawn.

Sir Hari Singh Gour: I have nothing more to say.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Chair does not wish to go into the various interesting and learned legal points made by the Honourable Member. The Chair is concerned only with one point, namely, whether the clauses objected to are within the powers of this Legislature or are outside those powers. The powers which this Legislature possesses are given in section 65 of the Government of India Act, and the Chair would like to invite the attention of Honourable Members to the wide words used in that section, giving authority to this Legislature to enact laws. Section 65 runs as follows:

"The Indian Legislature has power to make laws:

(a) for all persons, for all courts and for all places and things within British India; and

(b) for all subjects of His Majesty and servants of the Crown within other parts of India."

Can words be more comprehensive than these? These wide powers are restricted in certain ways and in certain cases, and that was the reason why the Chair more than once asked the Honourable the Leader of the Nationalist Party to point out how these wide powers were restricted by other provisions of the Act which would make these three clauses *ultra vires* of this Legislature. Honourable Member has not done so. The Chair in giving its ruling must say that, so far as the Chair is concerned, it will never be a party to restrict the rights of this House in any way without clear and definite authority in support of such a contention. It appears to the Chair that Honourable Members of this Legislature ought to be very sensitive in the matter of their own rights and privileges and the Chair will stoutly uphold them, unless clear and definite authority is shown to the contrary. The Chair holds that this Assembly is fully competent to enact the three clauses to which objection has been taken and rules that the points of order raised cannot stand. (Applause.)

Sir Hari Singh Gour: Sir, neither I nor those for whom I speak can reconcile ourselves with the drastic provisions of this Bill which are about to be enacted into law, in spite of the emphatic and indeed vehement protest of Members on the popular Benches. We had hoped that, when the Bill emerged from the Select Committee, the Honourable occupants of the Treasury Benches would at least extend to us that co-operation which we have extended to them time and again and give us the same facility which we might enjoy, if these Benches had not been so deserted, as I lament they are.

[At this stage Mr. President (The Honourable Sir Ibrahim Rahimtoola) vacated the Chair, which was taken by Mr. Deputy President (Mr. R. K. Shanmukham Chetty).]

Honourable Members on the other side must remember that this Bill was announced to be taken at a special Session of the Legislative Assembly, of which a very short notice was given to the Honourable Members at the Simla Session. And I do not complain that many Members of this House, who had already made engagements during this month and the last, found it impossible to cancel them and subordinate their personal interests to their public duty. That may be some excuse, but I venture to submit that it is hardly any justification for the absence of so many representatives of the public, on an occasion when a measure of such momentous importance, affecting the lives and liberties of the people, is about to become law. As I said on the last occasion, Ordinances were passed, but they were passed by the executive without the consent of the representatives of the people. But today technically and to all appearance this measure is becoming law with the consent of the popular Chamber. And it is on that ground that I deeply lament the absence of so many Honourable Members, who might have been here to represent the views of their various constituents.

Having said that, Sir, I now turn to the provisions of the Bill. I have made it abundantly clear, on previous occasions, that while we are anxious to arm Government with exceptional powers, we are equally anxious to safeguard those legitimate rights of the people against which abuses have been reported or abuses can be foreseen. And it is on those points that I had appealed to the Honourable the Home Member to modify the Draconian terms of many sections of this Bill. But that was not to be. Sir, I know that this Bill will be now transferred to another sphere, and so far as we are concerned, our voices shall have been raised in vain. But one thing I can ask the Honourable Members still to consider. There is time yet to consider. I gave two amendments, one of which was withdrawn, which my friends behind me now find was a good amendment; the other amendment went by default while I was hunting authorities for the points of order which I have since raised. I ask my esteemed friend, the Home Member, to pilot those two amendments in the other House, under the power of attorney which I hereby confer upon him.

There is a third point on which I should like the Honourable the Home Member to mitigate the provisions of this Bill. We on this side of the House feel very strongly on two points in this Bill. One is the prohibition and the complete interdiction of peaceful picketing by bodies and associations entirely unconnected with the civil disobedience movement. You have a very large number of temperance leagues, a large number of missionary societies and other social reform societies, which have

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been in existence in this country long before the Congress and the civil disobedience movement were heard of. The plenary provisions against picketing, provided in this Bill, endanger the activity, the perfectly legitimate and, let me add, laudable activity of those large bodies of men engaged upon social reform.

The other point, which I should like the Honourable Member to seriously consider, is the very drastic provisions that have been added to those already existing in the Press Emergency law. I am not connected with the Press and, as I said the other day, I should be the last person in the world to prevent the passing of a law that would exercise a salutary check upon the illegal activities of that body. But, at the same time, the Press is the cry of the public, and I, as a representative of the public, would be deprived of any communication from them through the medium of their accredited agency. To that extent the Members of this Legislature would be the poorer. The Honourable the Home Member could not be unaware of the provisions of the orders that have recently been passed demanding exorbitant securities from two organs of the nationalist Press; and I, therefore, ask the Honourable the Home Member that if he is still obdurate, he might at least relent after he has had his pound of flesh and he retires into the room of that composure and calmness, in which he works, undisturbed by the *verbosum forum* here or elsewhere. May he then exercise a temperate and judicial judgment and reflect in his mind, as to whether the provisions of this Bill are not likely to be abused, not by high officers, but by irresponsible subordinate officers, against whose excesses complaints have frequently been made and are being daily multiplied. I hope, Sir, my appeal to the Honourable the Home Member will not go in vain.

Mr. Muhammad Yamin Khan (Agra Division: Muhammadan Rural): Sir, before this Bill was introduced in the Assembly, we had only the Ordinances, and before the Ordinances came into force we knew what the condition of the country was. We knew that the state of affairs was getting from bad to worse every day, which forced the hands of His Excellency the Viceroy and Governor General in promulgating the Ordinance. The result which had been achieved was a marvellous one and we found that on account of the Ordinances a great deal of peace had been restored in the country, and that was the justification for the introduction of this Bill before the House. I am glad that the House realised their responsibility and, by a huge majority, referred this Bill to the Select Committee, a majority which had never been, as far as I remember, obtained in this House on any serious measure introduced by the Government. Sixty-four members voted for the consideration of the Bill, thus adopting the principle of the Bill, while they were opposed by only 32. Now, that voice of the Members had been justified again by their rising to the occasion, and they have realised their responsibility as representatives of the constituencies, that their first duty is to help the Government in restoring law and order, and thus bringing peace and prosperity without which no progress is ever possible in any country. Again I am very glad that this House has passed all the clauses practically in the shape that had been amended by the Select Committee. (*An Honourable Member*: "Why practically?") Because there has been a little change in the case of one section, about the military. Without any serious change

if any Bill passes through the Assembly on all occasions by a huge majority, that shows that proper care had been taken to amend the law in the shape which might find response from all sections of the House. This Bill will go as an Act after sometime in the country, and I am sure that this Bill will have the same effect in keeping peace in the country as the Ordinances had brought it into the shape as we stand today in the country; and that is the greatest justification. I am not concerned with this question that it is not liked by certain classes of people. Undoubtedly there will be some people who will not like the provisions of any law which is enacted, but the support which the whole country will give to this Bill is known by the majority which we found on each clause, and, afterwards when the people will come under the new reformed councils, they will know and will realise what a boon had been given to them by this Assembly (*Ironical Cheers from the Opposition Benches*) in keeping the country into proper order. I think this Bill will be appreciated by the whole country and, though there may be some difference of opinion between me and some of my Honourable friends who may deny it, but if they will go and search the feelings of most of their dumb constituents, they will find that they really appreciate this law and they will wholeheartedly support it. Sir, I support the motion.

Raja Bahadur G. Krishnamachariar: Sir, we have come to the last stage of the Bill. Not all the eloquence of my friends of the Nationalist Party, who are not in their seats now and whose seats are all empty, nor even the eloquence of my friend, the Leader of the Nationalist Party, has moved the hard heart of the Honourable the Home Member to withdraw even an inch from the position which he took up. I must compliment him on the very firm fight he put up on behalf of the Government, and, yet if I get up to say a few words, it is because I do not want that the country should know that I have recorded a silent vote, and that I should even at this last stage tell the Government and the country exactly what men of my view of thinking consider about this Bill. Throughout the stages of this Bill, the Honourable the Leader of the Nationalist Party has been hammering away on certain questions of constitutional law which, unfortunately for him, nobody cared to take into cognisance,—nor even he, as I shall show presently. I am not a constitutional lawyer nor have I the capacity to write three volumes of annotation on a 140 section Act. I was a plain practising lawyer who has been for some time at the Bar, and, with the common sense, which I hope, I am endowed with, I shall tell him presently that all his questions of constitutional law are entirely misplaced and out of order in this Assembly at least. (*An Honourable Member*: "Why?") I shall answer immediately why. The most important question, that he raised and which I know he has carefully avoided, as the Honourable the President pointed out when the question itself was being discussed, is about the forfeiture. Unless I am seriously mistaken, unless I have forgotten the whole procedure—I believe I was here when the debate on section 17F was going on in this House—that is the clause which deals with forfeiture—my friend the Honourable the Leader of the Opposition was, I believe, mum; he did not raise any objection to it; he never tabled an amendment asking that it should be omitted, nor did he put forward a single argument, with which we may now deal elaborately, in order to show how this provision is not *ultra vires* of the Legislature. Let me not be misunderstood. I do not support that provision. I say that provision is a very wrong one, and it ought

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not to have been allowed to find a place in an enactment deliberately passed by this Legislature which is supposed to be a popular legislature. But at the same time I very strongly object, even after the objection came from the leader of a distinguished party, that that objection should be formulated regularly, should be debated upon, that humble individuals like myself should be given an opportunity to show that

Sir Hari Singh Gour: May I intervene for one second and point out that if I had raised it by way of amendment before, it would have to be submitted to the decision of the whole House, whereas by raising it in the manner I did, I left it to the President as the custodian of the rights of Members to decide that point?

Raja Bahadur G. Krishnamachariar: I quite understand the position. The Honourable Member has made his position very very unfortunate by giving that explanation. If you read the report of the Select Committee, there is a long statement made

Mr. Deputy President (Mr. R. K. Shanmukham Chetty): I must remind the Honourable gentleman that, so far as the point of order was concerned, a ruling has been given by the Chair, and I would request the Honourable Member to confine himself to the discussion with regard to the merits of the Bill.

Raja Bahadur G. Krishnamachariar: I do not know that I was going to say anything against the decision on the point of order. What I beg to submit and, if I may be wrong I stand corrected, not being conversant with the procedure of the House so much as other gentlemen perhaps, you will excuse my lapse—if I try to explain myself,—because I do not want even to be thought of by anybody that I am in any way lacking in respect to the Chair, to question its order, which has been given after a great deal of labour and waste of time of a whole hour. What I wanted to submit was, that the procedure adopted by my friend in getting a decision upon a question, which he called a point of order, which is not a point of order so far as I can understand it, I say that the explanation which he has submitted to this House has made his position very unfortunate, for this reason

Mr. Arthur Moore (Bengal: European): On a point of order, Sir. Is it in order to discuss a point of order which is not a point of order?

Raja Bahadur G. Krishnamachariar: It is not a point of order, and if I may be permitted to explain a little

Mr. C. S. Ranga Iyer: On a point of order. Is it proper for any Honourable gentleman in this House to comment upon the ruling which has been given by the Chair?

Mr. Deputy President (Mr. R. K. Shanmukham Chetty): I would not permit any Honourable Member to start a discussion on a point of order on which a definite ruling has been given by the Chair, and I must, therefore, request Raja Bahadur Krishnamachariar once again to confine himself to the remarks on the third reading of the Bill.

Raja Bahadur G. Krishnamachariar: On a point of personal explanation, Sir. I am not trying by any means to trespass upon the decision of the Chair on the point of order

Mr. Deputy President (Mr. R. K. Shanmukham Chetty): The Honourable Member, so far as I am able to understand him, is again trying to discuss the point of order raised by the Leader of the Opposition.

Raja Bahadur G. Krishnamachariar: You will kindly allow me to express myself in my own humble way. I am not so familiar with the English language, and, so I hope, you will permit me to express myself in my own way for just a few minutes. I have got as much, if not more, respect for the ruling of the Chair than anybody else, but what I want to submit by way of personal explanation is this. In the report of the Select Committee, it was suggested that this question was going to be debated before the House, and I said the Honourable Member occupied an unfortunate position by inviting the ruling of the Chair. What that ruling is, I am not concerned with, but my point is this. I object to the Honourable Member's procedure that he did not bring it as an amendment. He said he took a more favourable opportunity by getting a ruling from the Chair. That I say has placed him in an unfortunate position, because he did not give an opportunity for debate, and that is what I wanted to point out. Anyway, it is useless to pursue the matter further. But the most important point, as I said, was about this forfeiture, and, as far as I understood the ruling of the Chair, it was not concerned with the correctness or the merits of the question. It was only concerned with the power of this Legislature, and on that, Sir, I do not want to say anything. But, so far as the rights of this Legislature are concerned to enact section 17F, the position is perfectly clear, and, while I again say that I do not agree with the provisions of that section, I think the House is entitled to know what the position in law is and how it is entitled to enact a provision like this. Sir, there was a famous case in the Madras High Court, in which property belonging to Dr. Annie Besant was confiscated, and the case was taken before the Privy Council. In that case an identical objection was raised that an order of forfeiture under a law passed by the British Indian Legislature was *ultra vires* without the safeguard which my friend wants that this section should have. The case was reported in I. L. R. 43, Madras, at page 160. It says:

"It was contended in the High Court and before this Board that it was beyond the competence of the Indian Legislature to enact section 22 and possibly to enact the Press Act. Now, section 22"

Mr. F. E. James (Madras: European): May I rise to a point of order, Sir. As far as I understand it, the argument, which my friend is developing, is the argument which was developed by the Leader of the Opposition and disposed of by the President in his ruling. I, therefore, would like to put it to you that the whole of that argument at this stage is not in order.

Mr. Deputy President (Mr. R. K. Shanmukham Chetty): Do I understand the Honourable Member to say that so far as the forfeiture clause is concerned, this Legislature has not got the right of enacting that law?

Raja Bahadur G. Krishnamachariar: No; but it had the right to do so.

Mr. Deputy President (Mr. R. K. Shanmukham Chetty): On that point a ruling has been given, and a discussion on that point at this stage is wholly irrelevant.

Raja Bahadur G. Krishnamachariar: I bow to your ruling, Sir. It saves 15 minutes of my arguments.

Then with regard to the question of constitutional law, which has troubled some of my friends, I at least cannot understand where the point of order ends and where the question of merits begins, and, therefore, I do not want to trouble the House over that matter. But, before I deal with one or two points of the merits of the Bill, I would like the Honourable the Home Member to consider one point, and that somewhat seriously. The Leader of the Opposition has invited the attention of this House to the fact that we were summoned here at very short notice, and I hope it will be admitted that some of us have got something else to do and not merely to knock about from place to place, merely for the pleasure of attending the meetings of the Legislature at a time when the cold weather is fast increasing and when we can really do nothing useful. We come here all the way and we offer co-operation. We do not belong to the civil disobedience movement, some of us at least have been sufferers at the hands of those who are propagating the civil disobedience movement. Our constituencies have elected us, and so we come here to offer co-operation. It is a matter which I cannot understand, probably I am very dense,—why outside the discussions which have been going on in this Legislature, most of us have been credited with a right to advise people upon difficult and knotty questions of everyday occurrences, and they have been safely acting up to our advice, and the world has been going on exactly on the lines on which we have been giving advice to our constituents, but, directly we come into this House, directly we say that a certain measure of the Government is not correct, we all of us become quite useless, not one of our suggestions is acceded to. And what is it therefore we are asked to co-operate except to register what the Government thinks is right? Is there no alternative view? Is it the idea that we should merely make speeches here and the Government should, by their majority, carry all measures, whether good or bad without properly considering our views? We know you have got the votes secure. There is an old story in the Tamil country. There was a zemindar who was not particularly conversant with music. Some of his friends brought some eminent musicians who began to show their musical skill. This zemindar got completely bored very soon. He sat for a few minutes and told the servants: "Look here, listen to the whole thing, and when the show is over, close the doors and go away". Is that the reason for which we come here? Is that the co-operation that you want from us, unless it be the co-operation of agreeing entirely with the Government, which results in, what my friend Mr. Yamin Khan said the other day, the peace of the grave and not the peace of a living community, which is quite satisfied with what has been done, and that is what is being attempted to be done. I want Government to take particular note of that fact, why it is that, directly we enter this House, we are supposed to have been deprived of all intelligence, of all sense of being able to discriminate between good and bad, and every time we get defeated. I have not been able to understand why.

This Bill is intended to safeguard the community from certain aspects of the civil disobedience movement. You run your eyes through the

sections of the Bill, even cursorily,—the operative clauses of it,—and there is not a field of the nation's activity which does not come within the purview of this legislation. What are those other phases of the civil disobedience movement that you have omitted from this Bill? Nothing. Snakes? No snakes in Iceland—that is the only answer I can give to this, because every phase of activity that a honest man is entitled to pursue has been roped in here, and it has been made so dangerous with Explanations explaining nothing, that it is impossible for any honest man, I say deliberately, I say advisedly, to do anything with a sword hanging over his head to fall at any time.

[At this stage Mr. President (The Honourable Sir Ibrahim Rahimtoola) resumed the Chair.]

I submit, therefore, that this piece of legislation is very objectionable and ought not to secure the assent of the House, though it be a cry in the wilderness. I do not think it is any use my going over the ground that has been covered here from beginning to end, but there is one point which I have not been able to understand, although I believe I tried to follow the debate, and that is with reference to what they call peaceful picketing. I do not know whether there can be peaceful picketing or whether there cannot be peaceful picketing. There are differences of opinion between Honourable gentlemen. We are all honourable people on both sides, and therefore it is impossible for me to decide between them as to who is correct and who is not correct. But surely when my Honourable friend, Mr. Anklesaria, who is not a particularly rabid Congress agitator, has thrown in his weight in favour of this peaceful picketing

Mr. N. N. Anklesaria: On a point of personal explanation, Sir. I have never said anything about peaceful picketing. I am against picketing of all sorts. That is what I say in my Minute of Dissent. I said peaceful persuasion.

Raja Bahadur G. Krishnamachariar: Beg your pardon. As I have said, I am not sufficiently conversant with the English language to understand the nicety of difference between persuasion and picketing. But if you refer to the Oxford Dictionary, persuasion and picketing come so very near that the line of demarcation,—I do not say in all matters,—in matters to which this particular Act relates, is somewhat difficult for a man to draw, and it is difficult for a man to differentiate between persuasion and picketing. I apologise to my Honourable friend for having stated picketing instead of persuasion, but I am concerned with the substance of it. He says:

"Peaceful persuasion or inducement which does not or is not calculated to involve any obstruction, violence, intimidation, annoyance, or alarm to any person does not come within the purview of this section."

It is stated in this printed book that this clause was finally given shape to by my Honourable friend, Mr. Anklesaria. What was the objection to that? Government would not agree even to that. That is my complaint. The reason why I brought in Mr. Anklesaria's name was that it was drafted by a person who has not committed himself to civil disobedience and who has absolutely no sympathy with that. Government are going to have this power, and I do not know whether I should

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congratulate them or not. But, if I am alive this time next year and continue to be a Member of this House, I hope we shall have some record of the manner in which this Act,—it would have been an Act by that time,—has been administered, and how the country, which is now claimed to have lost its peace, has got back its peace. I do not think I need take up the time of the House any more. I oppose this motion.

Some Honourable Members: Let the question be now put.

Mr. S. C. Sen: I have no intention of troubling the House with a long speech, nor do I want now to go into the merits of this measure. We have discussed the matter very thoroughly all these days. My point is this. This is a measure, as has been said by the Honourable the Home Member, intended to cope with the civil disobedience movement, but unfortunately, so far as I can see, the provisions of the Bill have not been restricted to the civil disobedience movement only. I find from the newspapers that in Allahabad they have made their Bill restricted only to the no-rent campaign. I do not know whether we can even now make the Bill restricted to civil disobedience only. I congratulate the Honourable the Home Member on the fact that he has got all he wanted, and he has not allowed even a "t" to be cut, or a comma to be added, or a dot to be put on. That is a matter on which he can well congratulate himself. There are one or two clauses on which I should like to say a few words. I am not concerned much with the first few sections, as we find that in Bengal those things cannot happen. We have no military there, nor have we any police officers whom we want to dissuade from their service. The country is so poor and the people are so starved that they want to get into any service they can enter, whether in the regular service of the police or as spies and informers. My grievance is as regards forfeiture. I pointed out in the Select Committee that there ought not to be a forfeiture of property or monies by executive order without reference to the civil Court. That would be an uncivilised method of grabbing somebody else's property. The Honourable the Home Member was kind enough to accede to my arguments and to put in a clause for referring the matter to the District Judge or the Chief Judge of the Small Cause Court. If he had left it there, I would have been satisfied, but he made the decision of the District Judge or the Chief Judge of the Small Cause Court final. We know that the Small Cause Court cannot have ordinary jurisdiction over Rs. 2,000. But in this case the claim may be for over Rs. 2,000, it may exceed Rs. 5,000, or Rs. 10,000 in Presidency-towns. In that case to provide for no appeal is I think wrong. It may be argued that this is a Court of special jurisdiction which has been created, and, as no appeal has been allowed, the High Court has no jurisdiction even in revision. I do not know whether that argument will succeed or not, but I may point it out to the Honourable the Home Member, so that he may consider even at this last stage whether he should not do something to remedy that defect.

As regards the Press, I have told the House that the proposals are very repressive and drastic, and will gag the activities of a very important section of the public. The result of the gagging of the Press has been shown by my friend, Mr. Mitra, this morning as regards the excesses practised by the punitive police and other police officers in Bengal. If

the Press had been free, these matters could have been disclosed in the Press and could have been brought to the notice of the Honourable the Home Member, but this cannot be done. In these circumstances, it is questionable whether this gagging of the Press is for the good of the country or the good of the Government which has to keep alive its good name, as good and civilised administration. In this connection I may refer the Home Member to a passage from the speech of Lord Minto when he was Governor General of this country and when the Newspaper Incitement to Offences Bill was being considered by the Legislative Council. He says that he was given advice by the public that the Government must be stern and must govern the country as has been done in this instance. We know that all the repressive measures, which have been put on the Statute-book, were more or less at the instance of other persons and because they insisted upon governing the country in the strict sense of the word. Lord Minto says:

"The public has that we are weak, that we have failed to maintain order, that the glory of England has departed, that strong measures have been neglected. I am no believer in hysterical demands in the hour of danger. I maintain that the strength of the British raj has been built up upon justice of its administration. Heaven knows that it was not weak but it has been a just one and I hope it will continue to be so."

I appeal to the Home Member to consider this passage of Lord Minto and consider whether the provisions of this Bill are just. The Home Member has got all he wanted in the nature of the provisions of the Bill. I appeal to him to issue strict instructions to Local Governments and subordinates as regards the execution of the measures contained in this Act, and, as regards the policy which the Government of India would ordinarily take for the purpose of pacifying public opinion, I ask him to see that the drastic powers are not exercised except in extreme cases. I do not know whether the instances given by Mr. Mitra are correct or not. It seems to me that they are correct, and, if that be so, I appeal to the Honourable the Home Member to see that there is no repetition of such gross repression and, in the interests of justice, in the interests of the good name of British administration in this country, and in the interests of the good name of the Britishers, I ask him to make a public inquiry,—I do not care if it is by officials—a thorough inquiry into this matter.

Several Honourable Members: I move that the question be now put.

Mr. Amar Nath Dutt: I cannot support the passing of a Bill like this. This Bill contains provisions restricting the rights of citizenship in every sphere of human activity, both with regard to property and freedom of person. If I look at the history of this Bill, which we are now asked to pass, we find that there was a time when the Government thought that the condition of things, for which the Bill like the present one is necessary, will exist for all time to come, and that provisions like these in the Penal Code itself were necessary and that the Bill will have a lease of life till eternity. Fortunately they found the unwisdom of asking the House to pass a legislation like this, and in the Select Committee they restricted the life of the Bill to a duration of three years. In addition to the Indian Penal Code, to have a legislation like this shows that there are certain extraordinary conditions for which we are asked to legalise the illegal acts of the public servants. The Bill as it has emerged

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from the Select Committee is no improvement upon what the Government wanted at one time. The duration of its life may be shorter, but it takes away the valued right which a citizen possesses. Clause 2 says:

"Whoever wilfully dissuades or attempts to dissuade the public or any person from entering the Military, Naval, Air or Police Service of His Majesty shall be punished."

I think it is the inalienable right of every human being to offer advice to a friend or relation and one's own children. It is for me to decide whether my son will be a member of the bureaucracy or whether he will join the Bar. It is not for them to compel my son to accept service under the present political conditions in the country; and if I am to advise my son and say, "no, you must pass your law examination and join the Bar", I am liable to be hauled up, because thereby I deprive the Government of a very valued servant of theirs. I cannot dream of any civilised society where guardians, far less parents, can be compelled to act in the way in which this section wants us to act, and I think it will be more honoured in the breach than in the observance, and that our people will be more willing to undergo imprisonment rather than see their way to becoming the subservient tools of the bureaucracy. Then again, as has been suggested by several friends, considering the economic distress in the country, there is hardly any need to prevent people from joining the services, and the Government will never be in want of men for their services, unless the attendant danger be such as will dissuade them from doing so. Apart from the physical danger that it entails, there is also the moral danger of entering especially one of the services named in the Bill, I mean the police service; wherein, as soon as you get into the service, you have to do acts, willingly or unwillingly which your conscience won't approve of. Sir, the other day we had the sorry spectacle of an Englishman who came to India to serve India as they say and for our welfare, and he gave us a long list of the wrongs to which the members of the police service are subjected. Sir, he forgot the rights of the people for whom the police exists. It is common experience with us, if not with the officers of Government themselves, that the police, instead of being our servants act as our masters. I remember that only a few days ago a police officer prevented me from entering this very Chamber, where I am by the suffrages of the people and where, under the Government of India Act, I am entitled to be. I do not know who gave that order and from whom that order emanated, and when I complained to the superior officer, he said, "that man did not know and he had no such instructions". Look here, Sir, if in the very place, where you are to enact laws for the protection of these men, these men behave in the way in which they did only a few days ago, you can easily imagine how they behave outside with the people in the country; and I ask you to answer this question: "Can you honestly say that you have no experience of police oppression and zoolum?" If not.

I invite your attention to the lurid picture that was drawn by my friend Mr. S. C. Mitra, a few minutes before, with respect to Midnapore. Sir, there are still heaps of papers with him showing how the people are being treated by the police, and I shall not tire the patience of this House by reading all those which will cause one's blood boil within himself. Sir, who is the manufacturer of these terrorists? Who is responsible for the advent of these terrorists in this land? It is legislation like this, and it is the attitude of Honourable Members on the Treasury Benches. Here in the name of law and order

they are manufacturing terrorists. Sir, remember the statement made by Miss Beena Das who was accused of firing at the Governor of Bengal,—and she gave out what impelled her to take the step, which she did in the very hall of her own *alma mater*. Sir, if you want to suppress terrorism, if you want to suppress all these revolutionary movements, it is up to you to be acting as you ought to, as members of a civilized administration. Sir, repression and mere repression will breed more revolutionaries. That is the history of all human institutions. You cannot expect me to love you. (*A Voice from the European Benches*: "No, no.") They cannot expect me to love them if they will behave with me in the way in which they are behaving. Sir, in a land where even the life of the smallest creature that breathes in this world is considered to be sacred, the birth-place of Buddhism and Jainism, there to find young men, with all the fervour and enthusiasm for the love of their country, taking a revolver and shooting, surely there must be some reason behind that. Will you not try to understand the situation? I ask you, Sir, for your own interests, as my friend, Mr. Gunjal, has advised you, not to listen to those flatterers, those toadies and title-hunters and job-seekers. You cannot live with them. Take our advice if you want to be here,—and I believe that your destiny and our destiny are bound up together for some time yet, and that is my desire and, I believe, the desire of everybody, that we may work hand in hand and peacefully in this land for the common benefit of us all. But if you do not listen to us, if you enact legislation like this, I submit, Sir, that there will be no end of these terrorist crimes. What you have heard today from Mr. S. C. Mitra, would exasperate the mildest amongst us and incite us to put an end to the perpetration of the outrages at Midnapur.

Sir, is there any honest man, any decent man, who would not lay down his own life in order to protect the honour of our women? Certainly one would not be worthy of being called a man if he did not do so. And I know you also will do the same thing if such things are perpetrated before your eyes. All these things are not brought to your notice, or it may be that you do not care to look into these complaints. Here photographs are submitted with those detailed accounts of outrages upon women, and these statements are signed and bear the thumb impression of the outraged women themselves. There may be men, of course, like Lord Lytton who would say that, in this country, women come forward and charge the police falsely. Sir, he has misread the history of this ancient land, and a fitting reply was given by Mrs. Sarojini Naidu at the overflowing meeting held near the Calcutta Town Hall, in which she said that anyone who would accuse Indian womanhood like that was wholly wrong.

Then, again, we have got clause 3 about tampering with public servants

Mr. R. S. Sarma (Nominated Non-Official): On a point of order, Sir. Is it open to the Honourable Member to traverse clause by clause and discuss the Bill clause by clause, or has he got to confine himself to the general observations on the third reading?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Only general observations are usually made on the third reading. We have had enough of detailed discussion. It is not a point of order, but it is a point for consideration by the speaker himself as to what he should do.

Mr. Amar Nath Dutt: I shall try to be as brief as possible.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order: The Chair proposes to sit till the Honourable Member concludes.

Mr. Amar Nath Dutt: Sir, as it is the desire of my friends that I should conclude and, as I do not wish to trouble the Chair by a long sitting, I will not take up the Bill clause by clause. All that I wish to say is that a Bill like this should not have been brought before this Legislature. If there are extraordinary circumstances and conditions prevailing in the country, then Government have already got sufficient powers to frame Ordinances, and they ought to have recourse to that. Sir, there is a limit to human patience. With these few remarks, I oppose the Bill.

Several Honourable Members: The question be now put.

STATEMENT OF BUSINESS.

The Honourable Sir Brojendra Mitter (Leader of the House): Sir, the course of business for next week will be that on Monday we go on with the Ottawa Resolution and the amendments to it. If this Resolution is passed, we shall go on with the Criminal Law Amendment Bill. After that, the Ottawa Bill will be introduced.

The Assembly then adjourned till Eleven of the Clock on Monday, the 5th December, 1932.

LEGISLATIVE ASSEMBLY.

Monday, 5th December, 1932. 9

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

QUESTIONS AND ANSWERS.

ILLNESS OF CERTAIN POLITICAL PRISONERS IN JAIL.

1524. ***Pandit Satyendra Nath Sen:** (a) Has the attention of Government been drawn to the fact that a large number of the important political prisoners (e.g., Messrs. Subhas Bose and J. M. Sen-Gupta) have been suffering very seriously from various ailments in various jails and other places of detention?

(b) Are Government aware that the late Mr. C. R. Das and the late Pandit Motilal Nehru also fell victims to their sufferings in jail?

(c) If not, have Government considered the desirability of making sifting enquiries by impartial experts as to the food and meals supplied to such prisoners?

Pandit Satyendra Nath Sen: Before question 1524 is answered may I point out that in clause (c) of the question the words "If not" are entirely out of place? These words had reference to a previous clause which has been disallowed. Therefore, the words "If not" should be changed into "If so", or they should be deleted.

The Honourable Mr. H. G. Haig: (a) and (c). I would refer the Honourable Member to the replies given by me in this House to Mr. S. C. Mitra's questions Nos. 201 and 378 on the 13th and 19th September, 1932, regarding the health of Mr. Subhas Chandra Bose and Mr. J. M. Sen-Gupta, respectively. Government receive frequent reports on the health of these two State Prisoners and have taken every care to provide them with suitable medical attention. Mr. Subhas Chandra Bose was transferred in the beginning of October to Bhowali Sanatorium for the treatment of the disease from which he was believed to be suffering. Government have recently acceded to his request to be further examined by a medical board which will consist of two doctors of his own choice and two doctors selected by Government. Mr. Sen-Gupta was brought to Calcutta towards the end of October and admitted into the Medical College Hospital. He is under careful treatment and I understand there is at present no cause for alarm. I shall shortly receive a more detailed report from the Government of Bengal and will then be able to communicate further information to the House.

(b) No, Sir.

Pandit Satyendra Nath Sen: Is it a fact that Mr. Subhas Chandra Bose is suffering from slow fever along with other diseases?

The Honourable Mr. H. G. Haig: I am afraid I cannot give a detailed description of Mr. Subhas Chandra Bose's symptoms.

Pandit Satyendra Nath Sen: Is it a fact that the late Mr. C. R. Das and Pandit Motilal Nehru suffered from the same disease, and that they contracted that disease in jail?

The Honourable Mr. H. G. Haig: No, Sir. The suggestion is that Mr. Subhas Chandra Bose is suffering from tuberculosis. I have never heard it said that either Pandit Motilal Nehru or Mr. C. R. Das suffered from that.

FORFEITURE OF DEPOSIT MONEY OF THE FREE PRESS JOURNAL.

1525. ***Pandit Satyendra Nath Sen:** (a) Will Government lay on the table a copy of the article reproduced from the *Young India* by the *Free Press Journal* for which its deposit money has been forfeited?

(b) What was the exact offence on which action was taken by Government?

The Honourable Mr. H. G. Haig: (a) A copy of the article has been placed in the Library of the House.

(b) The article was held to contain matter falling under clauses (d) and (h) of section 4(I) of the Indian Press (Emergency Powers) Act, 1931, as amended by section 77 of the Special Powers Ordinance, X of 1932.

Pandit Satyendra Nath Sen: Was it a mere reproduction of the article or was there any comment on it by the editor?

The Honourable Mr. H. G. Haig: It was a reproduction of the article.

Mr. Gaya Prasad Singh: Are Government prepared to point out the objectionable passages in the article so that other newspapers may be more careful in future?

The Honourable Mr. H. G. Haig: I understand that in the order of the Bombay Government certain passages were specified. If the proprietors of the journal are not satisfied, as the Honourable Member is aware they can take the matter to the High Court.

SEPARATING THE HINDUS FROM OTHER RELIGIONISTS IN RESPECT OF THEIR MEALS IN JAIL.

1526. ***Pandit Satyendra Nath Sen:** (a) Are Government aware that Hindus in general are very keen about their meal being not touched by other religionists?

(b) If so, are Government prepared to consider the desirability of separating the Hindus from the other religionists in respect of their meals in jail?

(c) Is any food forbidden for Muhammadan prisoners given in jail diet?

(d) If so, what is that?

(e) If not, why is the onion given to high caste Hindus? Are Government aware that it is forbidden for them?

The Honourable Mr. H. G. Haig: (a) and (b). The Jail Manuals of all Provinces provide that due regard shall be paid to the religious scruples and caste prejudices of prisoners and Government see no necessity for any further action in the matter.

(c) and (d). The articles of diet and dietary scales for prisoners are fixed by Local Governments and as I have just said due regard is paid to their religious susceptibilities.

(e) I would refer the Honourable Member to the reply which I gave on the 7th November to his starred question No. 899.

Pandit Satyendra Nath Sen: In reply to that question the Honourable Member referred to the anti-scorbutic properties of onion. May I know if onion is the only substance in the world which contains that property or is there any other thing also?

The Honourable Mr. H. G. Haig: I am afraid I must ask the Honourable Member to refer to medical opinion on that point.

Pandit Satyendra Nath Sen: Is the Honourable Member aware that beef and ham also contain some good qualities and are those also going to be introduced in the jails?

The Honourable Mr. H. G. Haig: No, Sir. They have nothing to do with anti-scorbutic properties.

Pandit Satyendra Nath Sen: They have got other good qualities.

TRANSFERS OF STATION SERVICE TELEGRAPHISTS.

1527. ***Pandit Satyendra Nath Sen:** (a) Is it a fact that the service conditions of a station service telegraphist make him immune from transfer outside the stations to which he is attached except in time of war or any other national emergency?

(b) Is it a fact that the Post and Telegraph Sub-Committee of the Retrenchment Advisory Committee, 1931, recommended transfers of telegraphists to combined offices as an "emergent measure" designed to absorb the surplus?

(c) Is it a fact that only station service telegraphists are picked up for such transfers?

(d) Is it a fact that under paragraph 64 (4) of Posts and Telegraphs Manual, Volume IV, transfers of signalling staff can be made to meet the general requirements of discipline and efficiency?

(e) Is it a fact that under paragraph 69 of the Posts and Telegraphs Manual, Volume IV, telegraphists under orders of transfer are on no account to be struck off duty until their advances have been arranged for and paid to them?

(f) If the answer to part (e) be in the affirmative, will Government be pleased to state whether the general service pay and status will be given to such station service telegraphists? If not, why not?

(g) If the answer to part (f) be in the negative, what are the causes for such distinctions?

Mr. T. Ryan: (a) Yes.

(b) Yes.

(c) No.

(d) Yes.

(e) Yes.

(f) So far as Government are aware no station service telegraphists have been deputed to work in combined post and telegraph offices in stations other than those to which such telegraphists were attached, and this part of the question does not therefore arise.

(g) Does not arise in view of the reply to part (f) above.

APPOINTMENT OF APPRENTICES ON THE EAST INDIAN RAILWAY.

1528. *Pandit Satyendra Nath Sen: (a) With reference to the answer given in reply to starred questions Nos. 1806 and 1808 (b) of 16th November, 1981, is it a fact that Mr. Platts was not discharged after the completion of his training but was in service in the Paint Shop? Is it also a fact that he failed in the Technical School?

(b) If the answer to part (a) above be in the affirmative, will Government please state the reasons for not selecting any successful ex-apprentices from the waiting list and what were the grounds for selecting an unsuccessful man for the post?

(c) Do Government propose to appoint ex-apprentices in all future cases from the waiting list according to seniority and the result of the Technical School as it is done in Jamalpur Workshop (East Indian Railway), which is under one and the same head? If not, why not?

Mr. P. R. Rau: With your permission, Sir, I propose to reply to questions Nos. 1528 to 1534. I have called for information and will lay a reply on the table, in due course.

APPOINTMENT OF APPRENTICES ON THE EAST INDIAN RAILWAY.

†1529. *Pandit Satyendra Nath Sen: (a) Is it a fact that one Indian apprentice who completed his training on the 9th February, 1980, from the East Indian Railway Workshop, Lillooah, worked in the Drawing Office for a longer period than all other apprentices of 1980 and 1981? Is it also a fact that he stood first in the Technical School among Jamalpur, Lucknow and Lillooah apprentices?

(b) If the answer to part (a) above be in the affirmative, with reference to the answer to starred questions Nos. 1806 and 1808 (b) of 16th November, 1981, will Government please state the reasons why Mr. Gibbons was selected for the post of Carriage and Wagon Draughtsman in preference to the Indian ex-apprentice of 1980? Do Government propose to take steps to replace him (Mr. Gibbons) by the ex-apprentice of 1980? If not, why not?

†For answer to this question, see answer to question No. 1528.

APPOINTMENT OF LILLOOAH APPRENTICES AS ELECTRICIANS AND TRAIN EXAMINERS.

†1530. *Pandit Satyendra Nath Sen: (a) With reference to the answer to Mr. Bhuput Singh's starred question No. 631 of 4th March, 1982, will Government please state whether it is a fact that the said Anglo-Indian had no training in Carriage Repairing, Train Lighting or Wagon Repairing Shop? Is it also a fact that he failed in the Technical School?

(b) If the answer to part (a) above be in the affirmative, will Government please state the reasons why he was selected for the appointment?

(c) Do Government propose to take in other ex-apprentices to such posts, who have similar training according to seniority and result of the Technical School on the same grade and issue orders to Divisional Superintendents to this effect? If not, why not?

VACANCIES IN THE GRADE OF TRAIN EXAMINERS, ELECTRICIANS AND ELECTRIC INSPECTORS ON THE EAST INDIAN RAILWAY FILLED BY EX-APPRENTICES OF THE LILLOOAH WORKSHOP.

†1531. *Pandit Satyendra Nath Sen: Will Government please state how many vacancies in the grade of Train Examiners, Electricians and Electric Inspectors occurred in the East Indian Railway, since March, and how many of them have been filled up by the ex-apprentices of Lillooah Workshop?

APPOINTMENT OF EX-APPRENTICES OF THE LILLOOAH WORKSHOP.

†1532. *Pandit Satyendra Nath Sen: (a) Will Government please state whether it is a fact that 81.8 per cent. European and Anglo-Indian and 18.2 per cent. Indian ex-apprentices of Lillooah Workshop (who completed their training from Lillooah Workshop), East Indian Railway, have been appointed in the Workshop establishment at Lillooah, since 1929?

(b) If the answer to part (a) above be in the affirmative, do Government propose to consider the case of Indian ex-apprentices and arrange to give them their share?

(c) If the answer to part (a) be in the negative, will Government please lay on the table the names of those who were appointed after the completion of their apprenticeship training from Lillooah Workshop since 1929 with the following:

- (i) date of completion of apprenticeship,
- (ii) date of appointment,
- (iii) percentage of marks obtained in final examination in Technical School, and
- (iv) starting salaries?

APPOINTMENT OF MECHANICAL APPRENTICES OF EAST INDIAN RAILWAY WORKSHOP AT LILLOOAH IN OTHER DEPARTMENTS.

†1533. *Pandit Satyendra Nath Sen: (a) Will Government please state whether a mechanical apprentice of East Indian Railway Workshop at Lillooah is allowed to work as apprentice in other departments?

†For answer to this question, see answer to question No. 1528

(v) Is it a fact that one European or Anglo-Indian who was appointed as apprentice in Mechanical Department, Lillooah, in 1928, is working in Electrical Department since his appointment?

HOURS OF EMPLOYMENT OF ELECTRICIANS, TRAIN EXAMINERS, ETC., UNDER THE DIVISIONAL SUPERINTENDENT, HOWRAH, ON THE EAST INDIAN RAILWAY.

†1584. *Pandit Satyendra Nath Sen: (a) Will Government please state what are the hours of employment of Electricians, Train Examiners, etc., under the Divisional Superintendent, Howrah, on the East Indian Railway?

(b) Is it a fact that in the Howrah Division (East Indian Railway), Electricians, Train Examiners, etc., perform 56 hours of duty in a week (9 hours 20 minutes daily), whereas in other Divisions such as Dinapore in the same Railway, Electricians, Train Examiners, etc., perform 48 hours duty in a week (8 hours daily)? If so, will Government please state the reasons for the same?

INDIAN MEDICAL DEPARTMENT ASSISTANT SURGEONS ON THE NORTH WESTERN RAILWAY.

1585. *Mr. S. G. Jog (on behalf of Mr. Goswami M. R. Puri): (a) Will Government please state the total number of the Indian Medical Department Assistant Surgeons employed on the North Western Railway?

(b) What is the quota of the Indian Medical Department fixed by the Railway Board for the North Western Railway?

(c) If the number of men from the Indian Medical Department is in excess of the quota fixed, what steps have been taken to reduce the excess?

Mr. P. R. Rau: Information is being collected and a reply will be laid on the table in due course.

REPAIRING AND TARRING OF THE MAUDE ROAD IN NEW DELHI.

1586. *Mr. S. G. Jog (on behalf of Mr. Goswami M. R. Puri): (a) Are Government aware that Maude Road which is one of the important thoroughfares running through the Indian clerks' quarters in New Delhi has not been repaired for a long time?

(b) Is it a fact that almost all the important roads in New Delhi have been macadamized and tarred? If so, will Government be pleased to state the reasons why the said road is not tarred or repaired? Are Government aware of a strong feeling amongst Indian clerks that the said road is uncared for, as the road is used only by Indians? If not, do they propose to inquire into the matter? If not, why not?

(c) Are Government prepared to ask the New Delhi Municipality to take early steps for the repairing and tarring of the road?

Mr. G. S. Bajpai: (a), (b) and (c). With your permission, Sir, I would answer parts (a), (b) and (c) together. It is true that Maude Road has not been repaired, nor its surface tarred, but this is due entirely to shortage of funds resulting from the prevailing financial stringency. A number of roads in the area where the Indian Clerks' quarters are located

†For answer to this question, see answer to question No. 1528.

in New Delhi, such as Park Lane, Punchkuin Road, and others have been repaired, and their surfaces treated, and Honourable Member may rest assured that Maude Road would be dealt with in the same way when the financial situation allows.

POSTS CREATED IN THE SECURITY PRINTING, INDIA, CURRENCY NOTE PRESS AND THE CENTRAL STAMP STORES IN NASIK.

1587. *Mr. S. G. Jog (on behalf of Mr. Goswami M. R. Puri): Will Government be pleased to state the number of posts created in the Security Printing, India, Currency Note Press and the Central Stamp Stores in Nasik since their establishment carrying salaries between Rs. 150 to Rs. 1,500 a month and how many are held by Indians and how many by Europeans and Anglo-Indians?

The Honourable Sir George Schuster: 133, of which 97 are held by Indians and 20 by Europeans and Anglo-Indians. 16 are vacant.

APPOINTMENT OF MR. FREDERICK JONES AS AN APPRENTICE IN PRINTING AT NASIK.

1588. *Mr. S. G. Jog (on behalf of Mr. Goswami M. R. Puri): (a) Is it a fact that one Mr. Frederick Jones has been appointed as an apprentice in printing at Nasik? If so, is he a paid apprentice or an unpaid one? Is it a fact that he is being given officiating appointments every now and then?

(b) Is it a fact that the Workshop Supervisor and the Store keeper are two brothers and the apprentice, Mr. Jones, is their nephew? Will Government be pleased to state whether the appointing authorities were aware of the relationship of all these employees? If so, will Government be pleased to state who appointed all the relations in that Security Printing?

The Honourable Sir George Schuster: (a) Yes. Mr. Jones is a paid apprentice. He has not held officiating appointments.

(b) The answer to the first two parts of this question is in the affirmative. The appointments were made by the Master, Security Printing.

RAILWAY QUARTERS ON THE EASTERN BENGAL RAILWAY.

1589. *Mr. S. G. Jog (on behalf of Mr. Goswami M. R. Puri): (a) Is it a fact that the Railway quarters on the Eastern Bengal Railway are still being classed as European and Indian?

(b) Will Government be pleased to state whether the staff member of the Railway Board circulated a statement stating that racial discrimination in matters of quarters and other respects has been abolished on the Indian State Railways? If so, will they be pleased to state why racial discrimination in the matter of quarters is still being maintained as stated in part (a) above?

(c) Is it a fact that Indian guards are drawing higher salaries than European guards, but that the Indian guards are being given "W" type quarters at Sealdah? If so, why?

(c) No.

(d) Because there is no evidence to show that the disability was contracted on field service.

(e) Yes.

(f) The Honourable Member's attention is invited to paragraph 414 of the Regulations for the Medical Services of the Army in India, a copy of which is in the Library.

(g) The term "ordinary proof" is not used in the regulations; so there is no distinction between it and "strict proof". The term "strict proof" is probably tautologous but means that special care must be exercised in accepting the evidence tendered.

Mr. S. G. Jog: Is it not a fact that these are two distinct things—illness contracted on field or foreign service, that is one thing, and illness solely attributable to field or foreign service? A man may come under one category, while another man come under another category. Are not these two quite distinct things?

Mr. G. R. F. Tottenham: Yes, Sir; they are two different things.

Mr. S. G. Jog: That means when a man contracts illness while on field service, the question about the attributability does not arise?

Mr. G. R. F. Tottenham: Under the old Regulations it was certainly possible for a soldier who contracted an illness on field or foreign service to be eligible for pension, whether the disability from which he was suffering was due to military service or not; but the regulations, as I have said, were subsequently altered, because it was realised that this provision was unfair to the taxpayer.

Sardar Sant Singh: May I know when this regulation was altered?

Mr. G. R. F. Tottenham: I think it was altered in 1922 or 1928.

Sardar Sant Singh: May I know if the persons who were recruited under the earlier rules are subject to the altered rules?

Mr. G. R. F. Tottenham: I should like to have notice of that question.

Sardar Sant Singh: It is a very simple question, whether persons who were recruited under the conditions given in the regulations of 1915 were or were not entitled to the pensions under the rules of 1915 but were ineligible under the rules of 1922?

Mr. G. R. F. Tottenham: I should like to have notice to look into that point. Persons who are enrolled are generally subject to the regulations as they are altered from time to time. I do not know whether any special provision was made under which these people were to be subject only to the 1915 regulations. It is quite possible that their terms of service made it clear that they would be subject to any regulations for the time being in force, but I will look into that point.

Sardar Sant Singh: Does the Honourable Member mean that by the change of regulations they can change the rules under which these people would be entitled to some pension, and can these people be deprived of that pension by introducing the new rules?

Mr. G. R. F. Tottenham: That is the point I will look into. Actually there is no question about the people mentioned in this question; they were brought in under the 1915 regulations and their case was dealt with under the 1915 regulations. There was no question of their being dealt with under any subsequent regulations.

Sardar Sant Singh: May I know . .

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order; next question.

DISABILITY PENSIONS TO DISCHARGED MILITARY MEN.

1544. ***Mr. S. G. Jog:** (a) Is it a fact that under Financial Regulations for the Army in India, Part I, paragraph 84, the date of commencement of pension is the one in which the pensioner ceased to be borne on the effective establishment, i.e., the date following that of discharge, but in practice disability pensions are being given with effect from the date of sanction allowing no arrears at all?

(b) Is it not a fact that Government, in their publication entitled "India's Contribution to the Great War" admitted that no member of community has a greater claim on the State than an incapacitated soldier? If so, are Government aware that arrears of 12 years and over are being disallowed in cases where disabilities have been certified as attributable to field and foreign service? If so, why?

(c) Will Government please state whether it is a fact that arrears for disability pensions in cases which, in the first instance, were admitted to disability pensions provisionally for three years and were to be reboarded on the expiry of the provisional grant on the initiative of Government to see if the disability warranted continuance of their disability pensions have been disallowed? If so, why?

(d) Is it a fact that under paragraph 4 of the Financial Regulations for the Army in India, Part I, paragraph 84, of the aforesaid Financial Regulations admitting pension from the date of discharge, is assumed to have received the sanction of the Secretary of State for India in Council and Audit Officers are authorised to admit pensions under the letter of the said paragraph?

(e) Will Government please state why the provisions of paragraph 84 of the Financial Regulations is being contravened, i.e., why pensions are being given from the date of sanction and why not from the date of discharge?

(f) Is it not a fact that sometimes the very correspondence between different offices takes from two to three years for which petitioners are not responsible and disability pensions have been disallowed even for this aforesaid period?

Mr. G. R. F. Tottenham: (a) and (e). The rule is as stated by the Honourable Member, but it applies only to pension claims preferred within the period prescribed in paragraph 44 of the Financial Regulations, Part I. With regard to the question of arrears, I would ask the Honourable Member to refer to the reply given on the 12th February, 1932, to part (b) of starred question No. 289.

(d) Is it a fact that European guards with less pay than Indian guards are being given special class quarters? If so, will Government state why the Indian guards with higher salaries than European staff are being provided with these special class quarters?

(e) Is it a fact that the Railway Board circulated a statement stating that quarters will be allotted according to an officer's grade and not on the basis of race, such as European or Indian?

Mr. P. E. Rau: With your permission, Sir, I propose to reply to questions Nos. 1539, 1540 and 1541 together. I have called for information and will place a reply on the table in due course.

QUARTERS FOR EUROPEAN STAFF AT SEALDAH.

†1540. ***Mr. S. G. Jog** (on behalf of Mr. Goswami M. R. Puri): (a) Is it a fact that the European Controller and other European staff at Sealdah, Eastern Bengal Railway, drawing less than Rs. 200 are being provided with "Z" type quarters though on the salary basis they are entitled to "W" type quarters only? If so, why?

(b) Will Government be pleased to state what is the total rent they are at present getting from all the "Z" type quarters at Sealdah and what rent they would have got if all the "Z" type quarters were made available to officers with higher salaries irrespective of whether they are Indians or Europeans?

(c) Will Government be pleased to state the maximum rent of only the building which can be recovered from the tenants of "W" type quarters on the Eastern Bengal Railway? Will Government be pleased to state the maximum rent of only the building which can be recovered from the "Z" type quarters on the Eastern Bengal Railway?

RACIAL DISCRIMINATION IN THE CLASSIFICATION OF QUARTERS AT SEALDAH AND OTHER PLACES.

†1541. ***Mr. S. G. Jog** (on behalf of Mr. Goswami M. R. Puri): (a) Is it a fact that some quarters have been built for Indian guards with less accommodation and of inferior type than the quarters being occupied by their European colleagues with lesser pay? If so, why?

(b) Do Government propose to do away with this racial discrimination in the classification of quarters at Sealdah and other places on all the State Railways? If not, why not?

RESOLUTIONS PASSED AT THE ALLAHABAD UNITY CONFERENCE.

1542. ***Raj Bahadur Sukhraj Roy:** (a) Will Government be pleased to state if their attention has been drawn to the tentative resolutions passed unanimously at the Allahabad Unity Conference recently?

(b) Have these resolutions affected or will they affect in any way the Communal Award given by the Premier? If so, how and under what circumstances?

(c) What is the meaning of "the communities agreeing among themselves"?

(d) Will the generally accepted "greatest good for the greatest number" principle of political economy apply in such a case or not?

(e) What is the general policy of Government on the question?

†For answer to this question, see answer to question No. 1539.

The Honourable Mr. H. G. Haig: (a) Government have seen the resolutions published in the Press.

(b) to (e). I would invite the Honourable Member's attention to paragraph 4 of the Communal Decision which states the position of His Majesty's Government in this matter and to which I have nothing to add.

DISABILITY PENSIONS TO DISCHARGED MILITARY MEN.

1543. ***Mr. S. G. Jog:** (a) Is it a fact that the terms of enrolment of the Indian ranks promised them as provided in clause II, paragraph 1053, Army Regulations (India), Volume I (1915 edition), that injury pensions will be given to those discharged as unfit for further service owing to:

(i) illness contracted on field or foreign service, and

(ii) illness solely attributable to field or foreign service?

(b) Is it not a fact that the personnels referred to in the statement laid on the table on the 15th September, 1932, in reply to question No. 141 (c) and (d) were passed medically fit for field service immediately before proceeding thereon and afterwards contracted disability both on field and foreign service?

(c) Will Government please state whether they have some records to hold that the said personnel did not contract the disability while on field and foreign service?

(d) If Government have no record to show that the illness was not contracted otherwise than on field and foreign service, how do Government conclude that the illness was not contracted on field or foreign service?

(e) Is it a fact that in the new rules for disability pensions, a note was introduced in September, 1925, to the effect that when a disability is contracted in peace conditions, strict proof that the disability is attributable to military service is required?

(f) Have Government got any rule as regards proof for the attributability of disabilities contracted on field or foreign service?

(g) Will Government please state the distinction between "strict proof" and "ordinary proof" as applied to field or ordinary military service?

Mr. S. G. Jog: Sir, I find that my question No. 1543 has not been properly reproduced, and that there is a material mistake to which I should like to draw attention. Between clauses (i) and (ii) of paragraph (a) of the question the word has been printed as "and", whereas in my manuscript I find that the word is "or". I hope the Honourable Member will be prepared, when replying to the question, to read "or" for "and".

Mr. G. R. F. Tottenham: (a) With the correction that the Honourable Member has just pointed out, the Honourable Member has quoted the 1915 Regulations correctly, but these regulations were subsequently altered.

(b) The answer to the first part of the question is in the affirmative. The answer to the second part is that the claims of these persons have been most carefully re-examined and in no instance has it been established that the individual was suffering from a pensionable disability contracted on field or foreign service.

(b) A soldier who has been disabled as a result of military service certainly possesses a very strong claim on the State; but this view is not inconsistent with the view that where there has been extraordinary delay in submitting a claim for a disability pension, the amount of the arrears to be granted should in the interests of the general taxpayer be determined according to the merits of the case.

(c) If a person who has been granted a pension for a fixed period allows some years to elapse before taking action to have it renewed, it is reasonable that the arrears finally allowed to him should be limited. In some cases the disability may have diminished or disappeared during the interval.

(d) Yes.

(f) I should doubt whether there have been any cases in which as much as two or three years have been spent in correspondence between different offices alone, but if the Honourable Member will give me any specific instances I will certainly look into them.

Mr. S. G. Jog: Is there any specific rule under the Army Instructions that after a certain period the right to pension lapses?

Mr. G. R. F. Tottenham: No, Sir; there is nothing in my answer which would warrant that conclusion.

Mr. S. G. Jog: Is there any rule that an application for pension should be made within a particular time?

Mr. G. R. F. Tottenham: Certainly, we have laid down some time limit for claims for disability pensions in respect of service during the war. That is merely following the practice at Home under which a definite time limit has been laid down; but, as I have explained, if in any particular instance a sufficiently good case can be put forward, Government are always prepared to look into it on its merits.

Sardar Sant Singh: May I know whether the charge of these pensions is borne by the British Exchequer or the Indian Exchequer?

Mr. G. R. F. Tottenham: I do not think, Sir, that that question arises out of the answers I have given.

DISABILITY PENSIONS TO DISCHARGED MILITARY MEN.

1545. ***Mr. S. G. Jog:** (a) With reference to the statement laid on the table on the 15th September, 1932, in answer to question No. 145 of 9th March, 1932, will Government please state how withholding of appeals by Officers Commanding is reconciled with the answer given by Government to question No. 285 of 29th March, 1932, saying that statutory rights have been conferred for disability and family pensions by the War Pensions Act of 1919 and 1920 in the United Kingdom and the same are conferred by rule in India?

(b) Is it not a fact that in England a person has got a statutory right to appeal against the decision of the Ministry of Pensions on the grounds that:

- (i) disability is not attributable to or aggravated by service in the Great War, or
- (ii) disability is due to the serious negligence or misconduct of the claimant?

(c) Is it also a fact that petitions and appeals bearing applicant's signatures and convenient addresses of the claimants have been viewed as drafted and typed by claims agencies and the claimants have been advised not to have recourse to such agencies?

(d) With reference to the general Regulations given on page 108 of the "Notes On War Pensions" (issued by the Ministry of Pensions) according to which an appellant may be assisted at the hearing by counsels or solicitors or by a member of local War Pensions Committee or friend, will Government please state why such a procedure is being denied to Indian ranks?

(e) With reference to the statement laid on the table on the 15th September, 1932, in reply to unstarred question No. 302 (c) and (d) of 30th March, 1932, will Government please state if they are satisfied that it was possible for the pension investigating officers to approach every disabled sepoy and illiterate widow? Will Government please state if they were in a position to conduct their further correspondence on their behalf?

(f) If the reply to part (e) above be in the negative, why are the claims of disabled sepoys, widows of deceased soldiers and minor children being declared as time-barred?

(g) With reference to the statement laid on the table on the 15th September, 1932, will Government please state if the existence of soldiers' board committees was fully advertised so as to be known by every disabled sepoy and widow? If the Indian ranks and widows could not avail themselves of this official facility, will Government please state what are their objections, if they avail themselves of the service of some non-official persons at their own expense?

Mr. G. R. F. Tottenham: (a) The answers quoted do not require reconciliation because they refer to two different things—one refers to the withholding of appeals and the other is the withholding of pensions.

(b) Yes.

(c) Yes, when the petitions have been so drafted and typed.

(d) Because the existing simple and direct means of preferring claims are considered sufficient.

(e) It is certainly just as easy for a disabled sepoy or illiterate widow to approach the official authorities direct as through a professional claims agency.

(f) Does not arise, but I may add that there is no time bar to the submission of claims for family pensions.

(g) The existence and functions of the Indian Soldiers' Board have been very widely advertised. Government have no objection to petitions written by petition writers on behalf of claimants, but, in the interests of the claimants themselves, they advise them not to make use of agencies, which charge a commission for their services, when they can get similar or better services for nothing through the official channels.

UNOFFICIAL PARALLEL POSTAL SERVICE IN THE BOMBAY PRESIDENCY.

1546. ***Rao Bahadur M. O. Rajah:** (a) Has the attention of Government been drawn to an A. P. I. message under the caption "Rival Postal Service" published in the *Madras Mail*, dated the 22nd October, 1932?

(b) Is it a fact that enormous revenue is being taken away from the Government Post Office by a secret unofficial parallel service in various districts of the Bombay Presidency?

(c) Is it a fact that competition with Government is being carried on in certain parts of Guzerat where letters and parcels are conveyed in motor buses by private agencies at rates considerably cheaper than those charged by Government?

(d) Are Government aware that this sort of business is being carried on since the enhancement of the postal rates?

(e) Are Government aware that the fall in the postal revenue is due to the enhancement of postal rates?

(f) Will Government be pleased to lay on the table a statement showing the total number of post-cards, envelopes and stamps sold and the number of articles posted during the years 1926, 1928, 1929, 1930, 1931 and 1932?

(g) Are Government prepared to restore the old postal rates in view of the fall of revenue due to increased postal rates?

(h) With reference to the questions above, do Government propose to educate the public as to the illegality of sending letters and parcels through unofficial agency however cheap it may be to them?

Mr. T. Ryan: (a) Government have seen the message in question.

(b) and (c). There has been some competition in parts of the Bombay Presidency with the Government Post Office. Government have no reason to believe that the loss caused in this way justifies the use of the adjective "enormous".

(d) There is reason to believe that the practice referred to was in existence before the recent enhancement of postal rates.

(e) No. The volume of postal traffic has no doubt been affected, but the indications are that the postal revenue is at present larger than it would be had the postal charges not been enhanced.

(f) The precise information asked for is not available; but information regarding the sale proceeds of postcards, envelopes and stamps of all denominations sold to the public for all purposes during the years referred to is as follows:

Year.	Value (in thousands of rupees).				
1926	..	..	..	..	7,21,80
1928	..	..	..	..	7,60,98
1929	..	..	..	..	7,62,92
1930	..	..	..	..	7,42,39
1931	..	..	..	..	7,08,65
1932 (first 9 months)	..	..	..	..	5,47,84

Information regarding the total number of articles posted is not available.

(g) As I have just explained the Honourable Member's assumption is incorrect. Government do not at present propose to restore the postal rates previously in force.

(h) Yes. Steps have already been taken in this direction.

DELHI CONSPIRACY TRIAL.

1547. *Mr. Muhammad Muazzam Sahib Bahadur: Will Government give the following information about the Delhi conspiracy trial:

- total cost spent up till now;
- cost on prosecution up till now;
- cost paid for defence up till now;
- the terms on which the different lawyers were engaged for conducting the prosecution case; and
- under what head this expenditure is shown in 1932-33 and the amount budgeted and spent?

The Honourable Mr. H. G. Haig: (a) Rs. 2,87,589.

(b) Rs. 82,869.

(c) Rs. 34,536.

(d) The prosecution is in the hands of two counsel, each of whom receives Rs. 1,500 a month. In addition, the senior counsel draws Rs. 150 for each day of hearing of the case. These emoluments are subject to the 10 per cent. cut.

(e) Account III Administration of Justice—C—Civil and Sessions Court. The amount budgeted for the financial year 1932-33 is Rs. 2,44,040 of which Rs. 1,02,060 had been expended up to the 30th September, 1932.

Dr. Ziauddin Ahmad: In view of the assurances given during the last two years that this case would come to an end in the current financial year, may I ask whether the case will come to an end during this year or whether he will ask for more money in 1933-34?

The Honourable Mr. H. G. Haig: I am afraid the course of the case is not in the hands of Government, but in that of the tribunal.

TENDERS FOR STALLAGE OF MEAT MARKET, BAKERY AND DAIRY SHOPS BY THE JULLUNDUR CANTONMENT BOARD.

1548. *Mr. K. P. Thampan (on behalf of Mr. Jagan Nath Aggarwal): (a) Will Government kindly inform the House if it is a fact that the Cantonment Board, Jullundur, called for tenders for stallage of meat market, bakery and dairy shops for the year 1932-33?

(b) Is it also a fact that such stalls are the property of the Cantonment Board and used to be let on monthly rent to the occupants before?

(c) Is it a fact that the Cantonment Board has now granted a monopoly to the occupants of the stalls for the next year and has refused licences to the vendors of the various articles mentioned above who had been carrying on this trade in the cantonment for several years past?

(d) Will Government kindly inform the House:

- of the cost to the Cantonment Board of constructing such stalls,
- of the rent charged annually for the same during the past five years, and

(iii) of stallage fees that have been realized from or contracted to be paid by the stallage contractors for the year 1932-33?

(e) Are Government aware that trade in the above articles in the Cantonment was previously only subject to a licence fee and such licences could not be refused if the licensee was prepared to pay the licence fee and abide by the regulations?

(f) Are Government aware that by the grant of the above contract a monopoly has been created in favour of the stall-holders and that prices of the articles concerned have gone up and that there have been various complaints of deterioration of quality?

(g) Are Government aware that the persons who desire sub-leases of the shops in the market are referred to the stallage-contractors and that such contractors demand exorbitant rent for the shops or refuse them on unreasonable grounds?

(h) Are Government aware that shops in the Cantonment outside the market are not allowed to be opened for the sale of above articles and such applications have been refused?

(i) Are Government aware that the Cantonment Board had tried to create a monopoly of the stalls of meat in 1926, but the said attempt was defeated by the orders of Northern Command?

(j) Are Government further aware that the dairy shop is located next to the beef market and such contiguity is highly objectionable to Hindus who have to go there to purchase dairy products?

Mr. G. R. F. Tottenham: The information has been called for and a reply will be laid on the table in due course.

DEPORTATION OF MR. RANBIR SINGH.

1540. *Bhai Parma Nand: (a) Is it a fact that Mr. Ranbir Singh, B.A., son of L. Khushal Chand, Proprietor of the daily *Milap*, has been deported under Regulation III of 1818? If so, to what place has he been taken?

(b) Are Government aware that at the time of his arrest Mr. Ranbir Singh was getting Rs. 200 for his pocket allowance? How much allowance do Government propose to give him during the period of his deportation?

(c) How long do Government propose to keep him under deportation? Will he be permitted to continue his studies?

(d) Will Mr. Ranbir Singh be permitted to write articles or books of a purely literary and innocent nature?

The Honourable Mr. H. G. Haig: (a) Yes. I am not prepared to state the place of detention.

(b) I have no certain information at present as regards his income prior to his arrest. The question of the allowance to be granted to him while detained as a State prisoner is under consideration, and will be decided shortly.

(c) and (d). He will be detained so long as this course is necessary in the public interest. He will be permitted to continue studies of an unobjectionable nature and to do such writing not for publication as is ordinarily permitted to State prisoners.

Mr. Lalchand Navalrai: Will the Honourable Member be pleased to state whether this man has been deported for his past sins or whether he has done anything fresh after he was acquitted by the High Court?

The Honourable Mr. H. G. Haig: The case against him is being referred to two Judges and I cannot say anything more than that.

Mr. Lalchand Navalrai: Will the Honourable Member be pleased to state what is the age of this boy? Is he 21?

The Honourable Mr. H. G. Haig: I am afraid I must ask for notice of that question.

RECRUITMENT OF STAFF BY THE SUPERINTENDENT OF POST OFFICES, DERAJAT DIVISION.

1550. *Bhai Parma Nand: Will Government be pleased to state:

(a) the number of Hindus, Sikhs and Muslims who have been recruited by the Superintendent of Post Offices, Derajat Division, as Lower Division clerks; when they were nominated and when examined; and

(b) the number of Hindu, Sikh and Muslim officials, (i) in the non-clerical superior grade, (ii) lower grade staff, and (iii) the number of candidates for each community for the above grades in the Derajat Division?

The Honourable Sir Frank Noyce: With your permission, Sir, I propose to take questions Nos. 1550 and 1551 together. Information has been called for and will be placed on the table of the House in due course.

Mr. M. Maswood Ahmad: Is it a fact that in this area under Derajat Division Muslims are in a overwhelming majority?

The Honourable Sir Frank Noyce: As I have said, information in regard to the question is being called for.

Mr. M. Maswood Ahmad: Will the Honourable Member please inquire of this thing also?

The Honourable Sir Frank Noyce: Certainly.

RECRUITMENT OF STAFF BY THE SUPERINTENDENT OF POST OFFICES, DERAJAT DIVISION.

†1551. *Bhai Parma Nand: Is it a fact that the Superintendent of Post Offices of the Derajat Division called for about 100 applicants from different places and examined them in July last for recruitment in the clerical line? If so, how many candidates have been declared successful and how many of them are Hindus, Muslims and Sikhs?

NON-FAMILY STATIONS FOR POSTAL EMPLOYEES IN THE DERAJAT DIVISION.

1552. *Bhai Parma Nand: Is it a fact that in the Derajat Division there are Post Offices in which the employees of the department cannot keep their families? Is it not a fact that the Postal employees are sent to such non-family stations only for one year and that the present Superintendent of Post Offices has practically given up that usual practice? If so, are Government aware that this involves great hardship to certain persons?

†For answer to this question, see answer to question No. 1550.

Mr. T. Ryan: The reply to the first part of the question is in the affirmative. As regards the second part, the fact is that officials are not ordinarily required to serve at 'non-family' stations for more than two years, and inquiries show that the present Superintendent of Post Offices has observed this rule except in the case of a few officials at their personal request. The last part of the question does not arise.

PUNISHMENTS INFLICTED ON THE CLERICAL STAFF BY THE SUPERINTENDENT OF POST OFFICES, DERAJAT DIVISION.

1553. *Bhai Parma Nand: Will the Honourable Member for Industries and Labour please lay on the table a comparative statement showing the punishments inflicted on the Hindu, Muslim and Sikh employees of the clerical staff by the present Superintendent of Post Offices, Derajat Division, upto 30th June, 1932, from the day he took charge of his office, and also a similar statement of punishments by his predecessor during the corresponding period of the previous year? Is it also a fact that during one of his visits to D. I. Khan, the present Superintendent imposed fine on a Sikh and a Muslim employee for the same fault and later he remitted the fine on the Muslim employee and allowed it to stand on the Sikh in spite of his representation?

The Honourable Sir Frank Noyce: Government have no information; it would require a great deal of time and labour to collect, and it would be of little significance unless supplemented by an analysis of all the circumstances of each case.

APPOINTMENT OF HINDUS AND SIKHS IN THE POSTAL DEPARTMENT IN THE NORTH-WEST FRONTIER PROVINCE.

1554. *Bhai Parma Nand: Is it a fact that in order to prevent the preponderance of any one community in any line orders were issued by the Director-General of Posts and Telegraphs in April, 1931, that one-third of the vacancies should be reserved for the less represented communities? If so, do Government propose to see that these orders are complied with in case of the Hindus and the Sikhs in the North-West Frontier Province?

The Honourable Sir Frank Noyce: The Honourable Member is referred to the reply given to Rao Bahadur M. C. Rajah's starred questions Nos. 980 and 981 in this House on the 24th September, 1931, in which the orders that were issued in April, 1931, are explained. Government have no reason to suppose that those orders are not being complied with in the North-West Frontier Province, but a copy of the question will be sent to the Postmaster General, Punjab and North-West Frontier.

RETRENCHMENT IN THE NORTH WESTERN RAILWAY ACCOUNTS DEPARTMENT.

1555. *Bhai Parma Nand: Is it a fact that there has been heavy retrenchment in the North Western Railway Accounts Department? Have Government considered that this would have been unnecessary had the Audit and Accounts Departments been re-amalgamated?

Mr. P. R. Rau: There has been a certain amount of retrenchment; but, so far as I can see, amalgamation would have resulted in large retrenchments.

REDUCTION IN THE EMOLUMENTS AND IN THE NUMBER OF TRAFFIC INSPECTORS.

1556. *Bhai Parma Nand: (a) Has there been reduction in the emoluments and also in the number of Traffic Inspectors?

(b) If not, why not? Is it a fact that the majority of them were Anglo-Indians?

Mr. P. R. Rau: I have called for information and will lay a reply on the table in due course.

ABOLITION OF POSTS OF WAITING ROOM INSPECTORS, PLATFORM INSPECTORS, LUGGAGE INSPECTORS, WATER INSPECTORS AND LADY TICKET CHECKERS.

1557. *Bhai Parma Nand: Have Government considered the question of the abolition of posts like Waiting Room Inspectors or Inspectresses, Platform Inspectors, Luggage Inspectors, Water Inspectors and Lady Ticket Checkers, in these days of financial stringency? If so, with what result?

Mr. P. R. Rau: During the recent economy campaign Railway Administrations have abolished or held in abeyance many such posts and I have no doubt that reductions have been made where practicable.

RESERVATION OF POSTS OF ASSISTANT ACCOUNTS OFFICERS, NORTH WESTERN RAILWAY, FOR TRAVELLING INSPECTORS OF ACCOUNTS.

1558. *Bhai Parma Nand: Have the Railway Board considered the question of reserving the three posts of Assistant Accounts Officers, North Western Railway, for Travelling Inspectors of Accounts of that Railway, in conformity with the Auditor General's instructions of 17th January, 1922, to the Chief Auditor, North Western Railway?

Mr. P. R. Rau: The question will be considered in consultation with the Auditor General.

Dr. Ziauddin Ahmad: May I, in this connection, draw attention of the Honourable Member that this thing was considered by the Railway Board and that the Financial Commissioner of Railways also passed orders on it? Here it is:

"The Auditor General has approved the proposal contained in para. 10 of the above mentioned note that with a view to increasing the prospects of Travelling Inspectors of Accounts, the three appointments of Assistant Audit Officers recommended as a permanent measure in place of Travelling Auditors of Accounts be reserved ordinarily for Travelling Inspectors of Accounts, discretion being, however, retained to fill them by qualified accountants, if suitable men in the Travelling Inspectors class are not available."

And the Financial Commissioner noted:

"In accordance with the accepted policy all changes introduced will provide for the protection of the existing rights and privileges of those already in service."

I thought it was a settled question. Why this consultation again?

Mr. P. R. Rau: My Honourable friend is reading from some instructions of 1922; there was no Financial Commissioner at the time.

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LEGISLATIVE ASSEMBLY. [5TH DECEMBER 1932-

Dr. Ziauddin Ahmad: I am reading from paragraph 67 of Memorandum by the Financial Commissioner on the separation of Accounts from Audit on Indian Railways.

"DISCHARGE" AND "ACQUITTAL" OF POSTAL OFFICIALS ACCUSED IN CRIMINAL CASES UNDER SECTION 209 OF THE CODE OF CRIMINAL PROCEDURE.

1559. *Shaikh Sadiq Hasan: (a) Will Government be pleased to state if the Director-General, Posts and Telegraphs, in his Circular Letter No. 106/S. B.-81, dated the 28th January, 1931, with a view to removing any misunderstanding, has directed his circle officers that "Discharge" of an accused in a criminal case under section 209 of the Criminal Procedure Code operates more favourably than "Acquittal" because, when an accused is discharged in a Court of law, it means that the trying Magistrate does not find sufficient evidence on which to charge the accused; an acquittal is pronounced when the evidence against the accused is sufficient to charge him and on calling for his defence the Magistrate finds that he has rebutted the prosecution evidence? If the reply to the above question be in the affirmative, are Government prepared to consider the cases of those postal officials who had fallen victims on account of such misunderstanding?

(b) Is it a fact that under Rule 54 (a) of the Fundamental Rules, an official is entitled to full pay and is liable to be considered as on duty and to count his such period towards service, for leave, pension and increment for the period he remained under suspension during trial of the case on his acquittal and subsequent reinstatement by his department?

The Honourable Sir Frank Noyce: (a) The reply to both parts of the question is in the affirmative.

(b) Rule 54 (a) of the Fundamental Rules provides that the revising or appellate authority may grant, for the period of absence from duty, in case of honourable acquittal, full pay, and any allowance of which the Government servant concerned was in receipt prior to his dismissal or suspension. Rule 54 further provides that in a case falling under clause (a) the period of suspension or dismissal will be treated as a period spent on duty.

ABSENCE OF POST OFFICES IN CERTAIN LOCALITIES IN LAHORE CITY.

1560. *Shaikh Sadiq Hasan: (a) Are Government aware of the fact that in the Circles of Farooq Ganj, Shariefpura, Faiz Bagh, Misry Shah, Vassanpura and Chob Miran, Lahore City, there is not a single post office?

(b) Are Government aware that the combined population of the above places equals the population of a town?

(c) What is the reason for the delay on the part of Government not to make arrangements for any post office in the above localities?

(d) Have Government considered the question of opening at least one branch post office somewhere near Misry Shah?

Mr. T. Ryan: (a) to (d). Government have no information. The matter is within the competence of the Postmaster-General, Punjab and North-West Frontier Circle, to whom a copy of the question is being sent.

INTERPRETATION OF LEAVE PROVISIONS UNDER FUNDAMENTAL RULE 81.

1561. *Shaikh Sadiq Hasan: Will Government be pleased to state whether the Government of India (Finance Department) had issued a letter No. F.-42-C. S. R./24, dated the 23rd August, 1924, to all Provincial and Local Governments giving the true interpretation of sub-clause (i) of Clause (c) of Fundamental Rule 81 of the Fundamental Rules, ordering therein that leave not due on medical certificate may be granted to an officer, without limit of amount of time and without reference to the prospect of his returning to duty and earning leave equivalent to that amount of leave and had this letter remained in force up to the 6th May, 1929? If a reply to the above question be in the affirmative, are Government prepared to consider the cases of those officials who have suffered loss on account of misinterpretation of the Government orders referred to above? If not, why not?

The Honourable Sir George Schuster: The reply to the first sentence of the question is in the affirmative and to the second in the negative. In connection with the ruling contained in the Government of India letter of August, 1924, referred to by the Honourable Member, the question was considered whether an authority is bound to grant 'leave not due' in a case in which a medical certificate is submitted. It was ruled that since leave cannot be claimed as a matter of right and since the wording of Fundamental Rule 81 (c) (i) is permissive, an authority is not bound to grant 'leave not due' in such a case. If, therefore, in any such instance a sanctioning authority has refused 'leave not due', no misinterpretation of the rule has in fact occurred.

EMPLOYMENT OF MUSLIMS AS COMPOUNDERS IN THE CIVIL AND MILITARY DISPENSARY, SIMLA.

1562. *Shaikh Sadiq Hasan: (a) Is it a fact that only one Muslim compounder is employed in the whole of the staff of the Civil and Military Dispensary, Simla? If so, will Government please account for the disproportion in the staff?

(b) Will Government please say whether they propose to take steps to remedy this grievance by employing more Muslims there?

(c) Is it not a fact that only during this current season an unpaid apprentice as compounder has been engaged in the Civil and Military Dispensary? If so, will Government please state the circumstances under which the said apprentice has been engaged, and whether any such apprentice has in the past been engaged in the Civil and Military Dispensary? Will Government also please state whether the intention in engaging the unpaid apprentice in the Civil and Military Dispensary is to appoint him as a paid apprentice when a vacancy occurs there?

Mr. G. S. Bajpai: (a) and (b). One of the seven compounders at this Dispensary is a Muslim. The question of increasing the Muslim proportion can be considered when a vacancy occurs.

(c) An unpaid apprentice was engaged during the last summer season to cope with the increased work, but this gives him no preferential claim to appointment when a vacancy occurs.

ALLEGATIONS AGAINST THE HEAD COMPOUNDER IN THE CIVIL AND MILITARY DISPENSARY, SIMLA.

1563. ***Shaikh Sadiq Hasan:** (a) Are Government aware that the Head Compounder in the Civil and Military Dispensary, Simla, has been utilizing Government Medical Stores in his private practice?

(b) Is it a fact that the Head Compounder of the Civil and Military Dispensary, Simla, was in the month of September caught red-handed taking out Government Medical Stores from the Stores Room, and giving them over to an outsider?

(c) Is it a fact that the matter mentioned in part (a) was brought to the notice of the Civil Surgeon in charge of the Civil and Military Dispensary, Simla? If so, will Government please state what action has been taken against the Head Compounder?

(d) Is it not a fact that the present Head Compounder, Civil and Military Dispensary, Simla, was some years ago detected misappropriating Government Medical Stores and in consequence was fined? If so, will Government please state what action against the Head Compounder for his behaviour referred to at parts (a) and (b) above is intended to be taken?

(e) Is it a fact that there is an order prescribing penalties for Government Medical Stores being misappropriated by compounders, etc.? If so, will Government please state whether this order has ever been enforced in the cases of persons found guilty of the offence?

(f) Is it a fact that the Head Compounder of the Civil and Military Dispensary, Simla, indulges himself in private practice? If so, will Government please state whether compounders and Head Compounders are entitled to such private practice?

(g) If the reply to part (f) be in the negative, will Government please state why the Head Compounder has been allowed to do private practice?

Mr. G. S. Bajpai: (a) No.

(b) and (c). The case to which the Honourable Member refers was found, on enquiry, to be one of *bona fide* issue of medicines to an entitled patient on an urgent prescription of his authorised medical attendant, but the Head Compounder was wrong in issuing the medicines from the Store Room instead of from the Dispensary. For this mistake the Head Compounder's duty was changed from the Store Room to the Dispensary.

(d) The reply to the first part is in the affirmative. The second part does not arise in view of the reply to parts (a), (b) and (c).

(e) It is the practice to punish compounders found guilty of misappropriation of Government medical stores, but there are no special orders on the subject.

(f) and (g). Compounders are allowed private practice with the permission of their superior officers outside duty hours, provided that it does not interfere with their official duties and that Government medical stores are not used. The Head Compounder has been granted the necessary permission subject to these conditions.

PUBLICATION OF THE INDIAN MERCHANT SHIPPING (AMENDMENT) BILL FOR ELICITING PUBLIC OPINION THEREON.

1564. ***Shaikh Sadiq Hasan:** (a) With reference to the Merchant Shipping Amendment Bill, are Government aware that the Muslim public generally and the orthodox classes particularly consider the clauses of the original Bill, as introduced in the Legislative Assembly, most objectionable and, if so, are Government prepared to have the Select Committee's report and amended Bill extensively published for eliciting public opinion thereon; if not, why not? Why are Government hurrying up in the matter?

(b) Will Government move the motion for consideration of the Bill in this Session?

(c) Are Government aware that even if the Bill be passed this Session, its clauses cannot be given effect to in this Haj season?

Mr. G. S. Bajpai: (a) Government have seen the comments on the Bill that have appeared in the Press. The Honourable Member has doubtless seen amendments that the Bill be circulated for eliciting public opinion, notice of which has been given by other Honourable Members in this House. Government's attitude towards this motion will be disclosed at the proper time. Government do not consider that the Bill has been or is being unduly hurried.

(b) This is Government's intention.

(c) Not necessarily.

EMBEZZLEMENT OF MONEY IN THE GOVERNMENT HIGH SCHOOL, AJMER.

1565. ***Maulvi Sayyid Murtuza Saheb Bahadur:** (a) Will Government please enquire and state whether it is a fact that public money amounting to thousands of rupees in the Government High School, Ajmer, has been embezzled?

(b) If the reply to part (a) above be in the affirmative, will Government please enquire and state, (i) the amount embezzled, (ii) the years in which the embezzlement took place, (iii) the name of the Head Masters of the said High School in the period of the embezzlement and (iv) the number of the inspections of the said High School by the Superintendent of Education during the period of the said embezzlement?

(c) Is it a fact that the accounts of the said High School were checked in connection with the preparation of the quinquennial report of education under Ajmer-Merwara for the years 1923-27? If so, were the accounts found to be correct?

(d) Is it a fact that the period of embezzlement covered the years 1923-27? If so, why was not the embezzlement detected in connection with the preparation of the said quinquennial report?

(e) Will Government please enquire and state, (i) which officer collected and checked the statistics relating to the preparation of the said quinquennial report, and (ii) which officer compiled it?

(f) Is it a fact that under the Civil Accounts Code, Vol. I, the Head Master is responsible for the custody of Government money in the said High School?

(g) Is it a fact that all papers and books dealing with Government money transactions and accounts of the said High School are checked and signed by the Head Master of the said High School?

(iv) Have Government called upon the persons who were Head Masters of the said High School during the period of the embezzlement to explain how and why the embezzlement had taken place?

Mr. G. S. Bajpai: With your permission, Sir, I shall deal with questions Nos. 1565, 1567, 1568 and 1572 together. The information asked for is being collected and will be laid on the table of the House in due course.

Dr. Ziauddin Ahmad: Shall we not be deprived of the opportunity of putting supplementary questions?

Mr. G. S. Bajpai: I can assure my Honourable friend that it is not with the intention of burking supplementary questions that I have given this reply. I have not had enough time to get the requisite report from the Chief Commissioner, Ajmer-Merwara.

DECAMPING OF AN EMPLOYEE OF THE GOVERNMENT, NAZARAT, AJMER-MERWARA, WITH GOVERNMENT MONEY.

1566. *Maulvi Sayyid Murtuza Saheb Bahadur: (a) Is it a fact that an employee of the Government Nazarat, Ajmer-Merwara, decamped with a sum of about five thousand rupees belonging to Government in 1982?

(b) Is it a fact that the Ajmer-Merwara Administration was unable to trace out the said employee and the Government money taken away by him?

Mr. H. A. F. Metcalfe: (a) Yes. The actual amount involved is Rs. 4,791-11-3, including a sum of Rs. 3,010 belonging to the District Board, Ajmer.

(b) Yes. The matter is under investigation. The question of responsibility for the loss is also under consideration.

NON-AUDIT OF ACCOUNTS OF GOVERNMENT EDUCATIONAL INSTITUTIONS IN AJMER-MERWARA.

†1567. *Maulvi Sayyid Murtuza Saheb Bahadur: Is it a fact that the accounts of the Government educational institutions in Ajmer-Merwara have never been audited during the last ten years? If so, why? If audited, when was it?

PURCHASE OF A CINEMA MACHINE AND ITS APPLIANCES BY THE ASSISTANT SUPERINTENDENT OF EDUCATION, AJMER-MERWARA.

†1568. *Maulvi Sayyid Murtuza Saheb Bahadur: (a) Is it a fact that a Cinema machine and its appliances were purchased, in 1928, by the Assistant Superintendent of Education, Ajmer-Merwara, from Messrs. J. Nath and Son, Ajmer, for Rs. 5,000?

(b) Are Government aware that the said Messrs. J. Nath and Son had purchased the said Cinema machine and its appliances for Rs. 900 from a firm at Lahore?

†For answer to this question, see answer to question No. 1565.

UNQUALIFIED PERSONS APPEARING FOR LITIGANTS AS LEGAL PRACTITIONERS IN AJMER-MERWARA.

1569. *Maulvi Sayyid Murtuza Saheb Bahadur: (a) Will Government please enquire and state whether they are aware that in Ajmer-Merwara several persons who are not qualified as legal practitioners have made it their profession to appear for litigants under cover of special powers of attorney and are thus virtually doing the work of legal practitioners and defeating the provisions of the law relating to the appointment of legal practitioners in the Courts in Ajmer-Merwara?

(b) Is it a fact that the persons referred to in part (a) above appear in Ajmer-Merwara Courts, not in place of, but along with the litigants for whom they purport to appear as authorised agents?

(c) Do Government propose to take any steps in the matter? If so, what? If not, why not?

Mr. H. A. F. Metcalfe: The information asked for has been called for and a reply will be laid on the table in due course.

COMPLAINTS AGAINST THE EDUCATION DEPARTMENT, AJMER-MERWARA.

1570. *Maulvi Sayyid Murtuza Saheb Bahadur: (a) Will Government please state whether it is a fact that a letter dated the 20th August, 1932, containing serious complaints against the Education Department, Ajmer-Merwara, under a registered cover, addressed by Swami B. Anand of Ajmer, was received by the Honourable the Education Member of the Government of India?

(b) Is it a fact that the Educational Commissioner with the Government of India and the Superintendent of Education, Delhi and Ajmer-Merwara, have also received copies of the letter referred to in part (a) above?

(c) Is it a fact that the Government of India have forwarded the letter referred to in part (a) above to the Local Administration of Ajmer-Merwara for disposal?

(d) Is it a fact that a number of letters containing serious allegations against the Education Department, Ajmer-Merwara, addressed to the Government of India by the said Swami B. Anand of Ajmer have been, for five years, forwarded to the Local Administration, Ajmer-Merwara, for disposal?

(e) Is it a fact that the Local Administration, Ajmer-Merwara, have never inquired into the allegations made by the said Swami B. Anand of Ajmer? If so, what are the results of the inquiries made by the said Local Administration?

(f) Will Government please inquire and state (i) how many times the said Swami B. Anand of Ajmer complained against the gross mismanagement of the Education Department, Ajmer-Merwara, to the Government of India during the last five years, (ii) how many times the Government of India forwarded the said complaints made by the said Swami B. Anand to the Local Administration, Ajmer-Merwara, for disposal and (iii) what were the results, in each case, at which the Local Administration of Ajmer-Merwara arrived?

Mr. G. S. Bajpai: (a), (b), (c) and (d). Yes.

(e) and (f) (iii). Information has been asked for from the Local Administration and, when received, will be laid upon the table of the House.

(f) (i) and (ii). The Government of India have received letters from Mr. B. Anand from time to time complaining against the Education Department of Ajmer-Merwara and have forwarded them to the Local Administration for disposal. No record of the number of these complaints has been kept.

Dr. Ziauddin Ahmad: May I ask whether the Government of India have expressed their opinion, or have acted merely as a post office?

Mr. G. S. Bajpai: I have stated that we have passed on these numerous complaints to the Local Administration for disposal. We did not express any opinion.

Dr. Ziauddin Ahmad: Are the Local Administration expected to give their opinion to the Government of India, or will they dispose of them themselves?

Mr. G. S. Bajpai: As I have stated, these letters or complaints were sent to the Local Administration for disposal. They were not sent to them for an expression of their opinion, but in relation to this question we have asked the Local Administration to let us know what action they took upon the complaints.

FALSE AND COUNTERFEIT CERTIFICATES ISSUED DURING THE TIME OF THE PRESENT SUPERINTENDENT OF EDUCATION, AJMER-MERWARA.

1571. ***Maulvi Sayyid Murtuza Saheb Bahadur:** (a) Are Government aware that (i) false certificates for appearing at the Rajputana Board's examinations and (ii) counterfeit certificates for passing the said Board's examinations even before appearing at the examinations have been issued during the time of the present Superintendent of Education, Ajmer-Merwara? If so, what steps do Government propose to take in the matter?

(b) Will Government please state the names of the officers who have been issuing the false certificates referred to in part (a) above?

(c) Will Government please state whether it is a fact that the Local Administration of Ajmer-Merwara have secured some counterfeit and false certificates of the type referred to in part (a) above, and what action do Government propose to take in the matter?

(d) Will Government please lay on the table of the House a copy of the letter referred to in part (a) of the preceding question?

(e) Will Government please state whether it is a fact that the allegations made by the said Swami B. Anand of Ajmer in his letter referred to in part (a) of the preceding question related to the issue of false certificates, counterfeit certificates, leaking out of the examination question-papers, unnecessary appointment of outsiders, unjust supersession of teachers, wrong posting of officers and bad examination results during the time of the present Superintendent of Education, Ajmer-Merwara?

(f) Will Government please state whether the complaints made by the said Swami B. Anand of Ajmer referred to in part (e) above are true or false? If true, what steps have been taken, or are proposed to be taken in the matter? If false, why was no action taken against the complainant?

Mr. G. S. Bajpai: (a), (b), (c) and (f). The information asked for is being collected and will be laid on the table of the House in due course.

(d) and (e). Government regret their inability to lay a copy of the letter referred to by the Honourable Member on the table of the House, or to disclose the substance of its contents.

Mr. M. Maswood Ahmad: Is that a confidential thing?

Mr. G. S. Bajpai: No, it is not confidential. It contains personal statements which are really defamatory in character if they are not true, and Government do not think that this gentleman should be given the opportunity of giving publication to these statements through the privileged proceedings of this House.

Dr. Ziauddin Ahmad: Will the allegations made in this particular question also be referred to the Local Administration for disposal, or will the Government of India have an opportunity of expressing their opinion?

Mr. G. S. Bajpai: They have already referred these letters, which were received last August, to the Local Administration for disposal.

Dr. Ziauddin Ahmad: Since the Government of India are the final authority in educational matters as far as Ajmer-Merwara is concerned, it is very desirable that the Government of India should assume responsibility and not shove it on to the Local Administration.

Mr. G. S. Bajpai: I can assure my Honourable friend that the Government of India have no disposition to shirk responsibility in regard to any matter, but when suggestions are made affecting matters of detailed administration, surely it is obvious that the right thing to do is to refer them to the authority immediately concerned, which is the Local Administration.

Dr. Ziauddin Ahmad: The charges are of a very serious nature. They have been referred to the Local Administration for their opinion, but the final authority ought to be the Government of India, and I think the Government of India are not prepared to take responsibility.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member is making a statement.

Dr. Ziauddin Ahmad: I just want to ask the Government of India whether they will or will not take responsibility for settling this question.

Mr. G. S. Bajpai: My Honourable friend may rest assured that if, on receiving the report from the Local Administration, the Government of India find that it is necessary or desirable for them to take some action, that action will be taken.

Diwan Bahadur Harbilas Sarda: The Honourable Member has said that the charges were of a serious nature. How does the Honourable Member know that the charges made are of a very serious nature? Have they been published? If the Honourable Member is in the confidence of the person who has made these charges, that is another matter. But this House knows nothing, and unless the House knows what the charges are, we are not in a position to ask the Government to do this thing or that thing.

Dr. Ziauddin Ahmad: The charges are in the question.

DISCRIMINATION IN MATTERS OF ADMISSION AND PROMOTION OF STUDENTS IN THE GOVERNMENT HIGH SCHOOL, AJMER.

†1572. *Maulvi Sayyid Murtuza Saheb Bahadur: (a) Are Government aware that a great deal of heart-burning among the poorer classes of pupils has been caused by the arbitrary discrimination in matters of admission and promotion of students in the Government High School, Ajmer, since the appointment of the present incumbent as the headmaster?

(b) Will Government be pleased to state whether it is a fact that during the time of the headmastership of R. S. Pt. P. B. Joshi in the Government High School, Ajmer, Jagdish, Bishnu Datt and Peer Chand who passed their Vernacular Final Examination in 1982 were admitted into the 8th class, but Bhanwar Lal and Ganpat Lal Nai who also passed their Vernacular Final Examination in 1982 were admitted into the 7th class of the said High School?

(c) If what is stated in part (b) above be a fact, will Government please give the reason for differentiation in the admission of the boys referred to in part (b) above?

(d) Is it a fact that the students holding fresh Vernacular Final Examination certificates are to be admitted, as a rule, in the 7th class of any high school? If so, why was the differentiation in the admission referred to in part (b) above brought into being?

"INDIA IN 1930-31".

1573. *Mr. S. G. Jog: (a) Will Government state when the volume "India in 1930-31" was published?

(b) Will Government state the object of this publication?

(c) Was there any delay in the publication of this volume? If so, are Government prepared to take steps to publish these volumes without delay in future?

The Honourable Mr. H. G. Haig: (a) On the 14th September, 1932.

(b) The publication is prepared for presentation to Parliament in accordance with the provisions of section 26 of the Government of India Act.

(c) The delay in publication was mainly due to the deputation of the author for three and a half months as Publicity Officer to the Indian Franchise Committee and to the fact that the report was very detailed and comprehensive. The question of how such difficulties can be surmounted is under consideration.

SUSPENSION OF THE RECOGNITION OF THE GREAT INDIAN PENINSULA RAILWAY WORKERS' UNION.

1574. *Mr. S. G. Jog: (a) Are Government aware that the recognition of the Great Indian Peninsula Railway Workers' Union had been suspended by the Agent of the Great Indian Peninsula Railway?

(b) Is it a fact that the Agent, Great Indian Peninsula Railway, has reported to the Railway Board on page 88 of the annual report of 1931-32 that the Great Indian Peninsula Railway Workers' Union is the only representative union on the line?

†For answer to this question, see answer to question No. 1565.

(c) Did the Agent ask the Union not to support the Wadi Bunder workers in their struggle and that its non-compliance would result in suspension of the recognition? If so, why?

(d) Are Government aware that the Agent had threatened the Great Indian Peninsula Railway Workers' Union to change their policy and be submissive to the Railway authorities?

(e) Will Government be pleased to place on the table of this House the whole correspondence that passed between the Agent and the Union (Great Indian Peninsula Railway Workers') for the information of this House?

(f) Will Government state if they are going to take any action against the Agent of the Great Indian Peninsula Railway for his action in withdrawing the recognition of the Union?

Mr. P. R. Rau: With your permission, Sir, I shall answer questions Nos. 1574 and 1575 together. I have called for certain information and will lay a reply on the table in due course.

SUSPENSION OF THE RECOGNITION OF THE GREAT INDIAN PENINSULA RAILWAY WORKERS' UNION.

†1575. *Mr. S. G. Jog: (a) Are Government aware that prominent union workers, Messrs. L. S. Tikekar, Muthuswami, G. H. Kale and Vaze, formerly Great Indian Peninsula Railway employees, are the direct or indirect victims of the attitude of the Agent towards the Great Indian Peninsula Railway Workers' Union?

(b) Are Government aware that the orders of the Railway Board issued in their communiqué of the 1st March, 1932, regarding Mr. D. B. Kulkarni, late Sub A. S. M., Manmad, has not yet been carried out by the Agent of the Great Indian Peninsula Railway?

(c) Are Government aware that Mr. Kulkarni was put off duty by the Divisional Transportation Superintendent on the 2nd January, 1930, and discharged on the 21st May, 1930, on the ground of unauthorized absence?

(d) Are Government prepared to assure this House that proper enquiries will be made into the case of the suspension of the recognition of the Great Indian Peninsula Railway Workers' Union and discharges of men mentioned in parts (a) and (b) and immediate steps will be taken to put the matters right?

(e) Is it a fact that Mr. Kulkarni's case has been represented to the Railway Board by A. I. R. F. for the last two years and no definite reply has yet been given?

TERMINAL TAX ON PASSENGERS GOING TO BHUBANESWAR, SAKHIGOPAL AND PURI.

1576. *Mr. B. N. Misra: With reference to the answers given to my starred question No. 1397 of the 22nd November, 1932, and No. 1082 of the 9th November, 1932, as regards the imposition of a terminal tax on passengers proceeding to (1) Puri (2) Sakshigopal and (3) Bhubaneswar, will Government be pleased to state:

(a) in what year or years the said tax was imposed and with what object;

†For answer to this question, see answer to question No. 1574.

- (b) what is the amount of money that was collected in each year till April, 1932, since its imposition;
- (c) in what year for the first time the said tax was imposed;
- (d) what is the total amount of collection under that head till April, 1932, since its imposition;
- (e) whether the said sum has been given to any municipality or Local Government for expenditure?
- (f) if not, where the money lies;
- (g) whether it is still being collected or not;
- (h) whether Government have stopped the collection, and since what year; and
- (i) if the information is not available, whether Government are prepared to collect the information and lay the same on the table of this House?

Mr. P. R. Rau: I have already given a full answer to most of the questions asked by my Honourable friend, but I am quite willing to recapitulate the replies for his benefit.

(a), (c) and (e). The tax was imposed in 1921 by the Government of Bihar and Orissa under section 23 of the Bihar and Orissa Places of Pilgrimage Act, 1920. It is collected through the agency of the Bengal Nagpur Railway, which is required to pay the terminal-tax to the Puri Lodging House fund or to such officer as the Government of Bihar and Orissa may direct, after deducting therefrom sums which that Government may approve to meet the expenses incurred in connection with the collection of the tax. The tax was imposed in order to provide funds for the improvement of sanitary condition of Puri.

(b), (d) and (i). I have already explained to my Honourable friend that in the opinion of Government the collection of information regarding the taxes collected and the expenditure therefrom from 1921 onwards will entail an expenditure of labour incommensurate with its value and are unable to comply with his request in full; but I have obtained figures for the year ending March, 1932, from the Agent of the Bengal Nagpur Railway. The total net amount paid to the President, Puri Lodging House Fund Committee in that year on account of this tax was Rs. 27,543 made up as follows:

	Rs.
Puri	23,857
Sakhigopal	1,596
Bhubaneswar	2,090

(f) Does not arise.

(g) and (h). So far as Government are aware, it is still being collected.

Mr. B. N. Misra: When pilgrims come from all parts of India, why should the tax be collected only by the Bengal Nagpur Railway and not the other railways?

Mr. P. R. Rau: It is collected through the Bengal Nagpur Railway, but the tax is collected from all passengers, travelling partly by the Bengal Nagpur Railway, and partly by other railways.

Mr. S. O. Mitra: May we take it that all the passengers that go to Puri or Sakhigopal have to pay the terminal-tax, whether they book at Howrah or other station?

Mr. P. R. Rau: All passengers who are travelling from beyond a certain limit prescribed by the Act.

REASONS FOR REJECTING APPLICATIONS BY AN OFFICER OF THE POSTAL DEPARTMENT.

1577. ***Mr. Muhammad Azhar Ali:** (a) Will Government please state whether on any occasion when a certain application submitted to an officer or the Head of the Postal Department is rejected, the applicant is entitled to know the ground on which the application has been rejected?

(b) If the applicant is not entitled to know the grounds, why; and are there any Government orders to that effect?

The Honourable Sir Frank Noyce: (a) No.

(b) There are no Government orders on the subject and it is obvious that Government must leave to its officers complete freedom to decide whether or not the reasons for the rejection of an application should be communicated to the party concerned.

DEFINITION OF "ORTHODOX HINDU COMMUNITY".

1578. ***Rao Bahadur M. O. Rajah:** With reference to the answer given to starred question No. 1421 on the 23rd November, 1932, will Government state:

(a) if they have laid down, and if so, what is the definition of the term "Orthodox Hindu community"; and

(b) whether the "Orthodox Hindu community" comprises of Brahmins or non-Brahmins?

The Honourable Mr. H. G. Haig: With your permission, Sir, I propose to reply to question Nos. 1578 and 1579 together. I am afraid my information on these subjects is defective, and I would suggest that the Honourable Member should address his enquiries to one of the learned Pandits opposite (Laughter) who would no doubt be prepared to give him a complete answer.

Mr. Amar Nath Dutt: Who is the Pandit referred to?

The Honourable Mr. H. G. Haig: One of the learned Pandits is behind the Honourable Member.

Pandit Satyendra Nath Sen: From parts (b) and (c), do Government realise that high caste Hindus are not severe upon the so-called Depressed Classes, but treat them with proper consideration?

The Honourable Mr. H. G. Haig: I am quite prepared to accept any assurance my Honourable friend gives me.

PROTECTION AGAINST TEMPLE ENTRY BY UNTOUCHABLES.

†1579. *Rao Bahadur M. O. Rajah: (a) With reference to the answer given to question No. 1422 answered on the 28rd November, 1932, are Government aware that the orthodox Hindu community holding orthodox views is only a microscopic minority of the whole Hindu population?

(b) Are Government aware that Nanda, a Saivait Saint and Tirupan Alwar, a Vaishnava Saint are worshipped in Saivaites and Vaishnavas temples respectively as gods along with the other gods and that these saints belong to the so-called untouchable community?

(c) Are Government aware that in the temple of Jagannath in Puri, all Hindus are allowed into the temple and that they eat together the *Maha Prasad* offered to the god?

POSTS ABOLISHED IN THE CENTRAL CIRCLE AND RAILWAY MAIL SERVICE BRANCHES.

1580. *Mr. Goswami M. R. Puri: (a) Will Government be pleased to state the number of posts abolished in the Central Circle and Railway Mail Service branches from the 1st July, 1931, in the matter of:

- (1) Departmental Branch Postmasters;
- (2) Overseers;
- (3) Postmen and Village postmen;
- (4) Mail Peons;
- (5) Packers;
- (6) Messengers or runners;
- (7) Clerks; and
- (8) Postal and Railway Mail Service officers?

(b) Will Government be pleased to state the number of men thrown out of employment in each of the above cadres in the Central Circle since 1st July, 1931?

Mr. T. Ryan: (a) Up to 1st May, 1932, the latest date for which accurate figures are available, the number of posts abolished since July, 1931, was as follows:-

(1) Departmental Branch Postmasters	..	..	24
(2) Overseers	..	..	11
(3) Postmen and village postmen	..	..	118
(4) and (5) Mail peons and Packers	..	..	details are not available.
(6) Messengers or Runners	..	..	102
(7) Clerks	..	..	108
(8) Officers	..	..	2

(b) Government have no information as to the exact number of men finally thrown out of employment as a result of these measures.

†For answer to this question, see answer to question No. 1578.

INDIAN FOREST SERVICE OFFICERS.

1581. *Sardar Sant Singh: (a) How much have Government to spend on the training of each directly recruited officer for the Indian Forest Service?

(b) What is the total number of Indian Forest Service officers in each province and how many of them are Europeans, statutory Indians and Indians, and what percentage does each of the community form?

(c) How many of these officers are directly recruited and how many of them are promoted from the lower ranks in each of the province and why does their number differ in each province?

(d) What reduction in the strength of the Indian Forest Service in each province has been effected and how many of the retrenched personnel are Indians and how many Europeans, and with how much service?

(e) What more retrenchment is contemplated in each of the Provinces?

(f) What was the proportion of Indians before the retrenchment and what is it at present?

(g) Who are the Indians who have been or being retrenched on grounds of inefficiency from each of the provinces?

(h) Do Government propose to recruit and spend on the training of any more Indian graduates for the Indian Forest Service only after all the young Indian retrenched officers are absorbed? If not, why not?

Mr. G. S. Bajpai: (a) Since 1926, Indian probationers for the Indian Forest Service have been trained at Dehra Dun and the cost of training them has averaged Rs. 27,300 per probationer. This figure includes the contributions made by Local Governments. No expenditure has been incurred on the training of European officers recruited in the United Kingdom.

(b) and (c). A statement giving what is understood to be the information asked for in part (b) and the first part of (c) of the Honourable Member's question is laid on the table. In 1920 it was decided to allot 12½ per cent. of the superior posts in each province to promoted officers, to be filled as vacancies occurred, and in 1930 the proportion was raised to 25 per cent. Variation in the number actually promoted in different provinces is due to the varying strengths of the provincial cadres and to the rate at which vacancies occurred amongst the directly recruited officers.

(d) A statement is laid on the table.

(e) Proposals for the reduction of the strength of the Indian Forest Service cadres in the Punjab and Assam are under consideration.

(f) The percentage of Indians, including statutory Indians, before retrenchment was about 30.9. It is now 31.8.

(g) One from the Central Provinces and one from Burma.

(h) Recruitment to the Indian Forest Service, both by direct appointment and by promotion, has been suspended pending a decision on the recommendation of the Services Sub-Committee of the Indian Round Table Conference that the Indian Forest Service should be provincialised. This part of the question does not, therefore, arise.

Statement showing the number of officers on the Indian Forest Service cadres of the provinces, their nationality and the method of recruitment, on 1st January 1932.

Provinces.	Europeans.		Statutory Indians.		Indians.		Total No. of officers.	No. of promoted officers.	No. of direct recruits.
	No. of Europeans.	Percentage.	No. of Statutory Indians.	Percentage.	No. of Indians.	Percentage.			
Madras	29	51	2	4	26	45	57	7	50
Bengal	15	68	..	..	7	32	22	2	20
Bombay	20	80	..	..	5	20	25	2	23
United Provinces	24	68.5	..	..	11	31.5	35	7	28
Punjab	18	56.2	..	..	14	43.8	32	4	28
Bihar and Orissa	8	50	1	6	7	44	15	2	14
Burma	71	94.7	1	1.3	3	4	75	2	73
					(Burmans)				
Central Provinces	19	59.4	1	3	12	37.6	32	3	29
Assam	12	63.1	1	5.3	6	31.6	19	2	17
Total	216	69.01	8	1.92	91	29.07	313	31	282

Statement showing the reductions made in the Indian Forest Service cadres of Burma, United Provinces, Central Provinces and the Punjab as a measure of retrenchment.

Province.	No. of posts reduced.	No. of officers who retired on superannuation.	No. of officers retrenched.			
			Europeans.		Indians.	
			No.	Total service (approximate).	No.	Total service (approximate).
Burma	12	3*	8	2 with 22 years' service 1 with 20 years' service 1 with 16 years' service 1 with 11 years' service 2 with 10 years' service 1 with 7 years' service	1*	6 years.
United Provinces	3†	..	..	..	..	..
Central Provinces	3†	..	1	11 years	1	9 years
Punjab	1	..	1	27 years	..	..
Total	19	3	10		2	..

* Burman.

† Three vacant posts were abolished.

‡ The third post will be absorbed as soon as a vacancy occurs.

FACILITIES PROVIDED FOR KEEPING OF MILCH COWS IN NEW DELHI.

1582. *Sardar Sant Singh: (a) Will Government please state what facilities have been provided for the tenants of D. I. Z. Area, New Delhi, for keeping milch cows for their use?

(b) Are Government aware that cow-byres built for the purpose are insufficient to meet the growing demands of the tenants in the above area and that there exists no cow-byres in Joffre, Edward, Diaz, Foch, Haig, French, Market, Baird, and Raja Bazar Squares? If so, do the tenants concerned keep milch cattle in their quarters?

(c) Is it a fact that the above arrangement is not permissible under certain bye-laws of the New Delhi Municipality and that tenants are threatened with prosecution, under paragraph 182 of the Punjab Municipal Act, 1911, for tethering their cattle outside their quarters on the space belonging to those quarters towards service roads?

(d) Are Government aware that it is not possible to keep the cattle within a quarter for 24 hours?

(e) Is it not a fact that the space referred to in part (c) above does not form part of the street and that the general traffic has nothing to do with it? If so, do Government propose to protect the law-abiding citizens from harrassment by the Municipal Committee and to see that no unreasonable obstacles are placed in the way of tenants who maintain cows for their requirements?

Mr. G. S. Bajpai: (a) Eight cattle-byres have been provided in the D. I. Z. Area, New Delhi, which provide accommodation for 368 heads of cattle.

(b) Yes, but there is also a tendency to keep more cattle than are required to meet the needs of the area.

(c) Although the legal position is as stated by the Honourable Member, clerks residing in Government quarters have been temporarily exempted from the operation of the "Stable and Cow-house bye-laws" for the reason mentioned in part (b) of the question. The Honourable Member will appreciate that in the interests of the health, not only of this area but of the city as a whole, this exemption cannot be extended to those who keep an unreasonably large number of cattle within their quarters or tether them outside their houses, or on public roads and passages.

(d) No. The interior of most quarters includes an open space where cattle can be tethered.

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

RETIREMENT, ETC., OF MEMBERS OF THE SUPERIOR SERVICES UNDER THE RETRENCHMENT SCHEME.

1583. *Sardar Sant Singh: Will Government be pleased to state how many members of the Superior Services have been made to retire under the Retrenchment Scheme and how many appointments have been abolished in this connection and, in cases where these appointments have been filled, what emoluments have been given to the incumbents?

The Honourable Sir George Schuster: The information is being collected and will be laid on the table in due course.

RE-EMPLOYMENT OF RETRENCHED OFFICERS OF THE SUPERIOR SERVICES.

1584. *Sardar Sant Singh: Will Government be pleased to state how many of the retrenched officers of the Superior Services have been re-employed and what pay they have been given in the case of re-employment? Have they been treated on a footing different from that of the retrenched clerks? If so, why?

The Honourable Sir George Schuster: If the Honourable Member is referring to the re-employment of retrenched officers of the All-India and Class I Central services in posts under the Central Government, Government are not aware that any such appointment has been made. The latter part of the question therefore does not arise.

OCCUPATION OF THE EASTERN HOSTEL IN NEW DELHI.

1585. *Mr. Nabakumar Sing Dudhoria: Will Government be pleased to state:

- (a) the class of people that have been occupying at present the building called the Eastern Hostel in New Delhi;
- (b) whether they are all Government servants;
- (c) to what department or departments they belong;
- (d) how many of such servants have been in occupation of the flats and quarters;
- (e) the total monthly contributions they are making by way of rent, etc.;
- (f) whether such contributions are charged according to the proportion of their pay;
- (g) how many among the occupants are (1) Hindus (2) Muslims, (3) Anglo-Indians and (4) Europeans;
- (h) whether the building was originally constructed for the occupation of such people as are occupying it now;
- (i) the monthly contributions obtained from the Telegraph and Post Offices, respectively; and
- (j) whether electric current and water consumption are charged separately from the occupants?

Mr. T. Ryan: Information is being obtained and a complete reply will be placed on the table of the House in due course.

PREFERENTIAL TREATMENT IN THE SUPPLY OF UNIFORMS ON THE NORTH WESTERN RAILWAY.

1586. *Kunwar Haje Ali Khan: (a) Is it a fact that the North Western Railway, Delhi Division, gives uniform to its running staff twice a year, but this year winter clothing has been stopped owing to retrenchment?

(b) Is it a fact that in this winter uniforms have been supplied by the North Western Railway to their European, Anglo-Indian and even Indian Christian staff in the Delhi Division?

(c) If the answer to the above be in the affirmative, will Government kindly inform the House why this preferential treatment was made between Christians and non-Christians?

Mr. P. E. Rau: I have called for information and will lay a reply on the table in due course.

LOW PERCENTAGE OF MUSLIMS IN THE OFFICE OF THE DIRECTOR-GENERAL, INDIAN MEDICAL SERVICE.

1587. *Mr. Muhammad Muazzam Sahib Bahadur: (a) Is it a fact that the percentage of Muslims in the office of the Director-General, Indian Medical Service, is very low as compared with other communities? If so, what steps are Government taking to increase their proportion?

(b) Is it a fact that a stenographer in that office deals with cases relating to appointments and other establishment matters?

Mr. G. S. Bajpai: (a) A statement giving the communal composition of the clerical establishment of the Director-General, Indian Medical Service, is laid on the table. The general policy of Government to prevent the preponderance of any one particular class or community has been adopted in this office.

(b) The attention of the Honourable Member is invited to the reply given by me on the 9th November, 1932, to starred question No. 1081.

Statement.

There are seven Muslims, five Europeans and Anglo-Indians, one Indian Christian, one Sikh, and twenty Hindus in the office of the Director-General, Indian Medical Service.

APPOINTMENT OF A MUSLIM STENOGRAPHER IN THE OFFICE OF THE DIRECTOR-GENERAL, INDIAN MEDICAL SERVICE.

1588. *Mr. Muhammad Muazzam Sahib Bahadur: Is it a fact that there are three stenographers in the office of the Director-General, Indian Medical Service? Will Government please state how many of them are Muslims? If there is no Muslim stenographer, will Government please state whether they propose to appoint one when the next vacancy occurs?

Mr. G. S. Bajpai: None of the three stenographers is a Muslim. The Honourable Member will appreciate that Government's policy to avoid the preponderance of any one community has to be applied to a service or establishment as a whole, and not to a particular section or branch of it. He may, however, rest assured that, when a vacancy occurs amongst the stenographers in the office of the Director-General, Indian Medical Service, the claims of duly qualified Muslims will be considered.

ABOLITION OF ONE OR TWO POSTS OF STENOGRAPHERS IN THE OFFICE OF THE DIRECTOR-GENERAL, INDIAN MEDICAL SERVICE.

1589. *Mr. Muhammad Muazzam Sahib Bahadur: Will Government kindly say whether they have considered that the stenographers' work in the Director-General, Indian Medical Service office justifies the existence of the three posts of stenographers? Is it a fact that one of the stenographers is employed practically as a typist only and has no shorthand work to do? If so, will Government say whether they have

considered the abolition of one or two of the posts of stenographers? If not, why not?

Mr. G. S. Bajpai: No stenographer is employed as a typist only, and Government are satisfied that it is not possible to abolish any of the three posts.

RULES FOR RESERVATION OF BERTHS FROM INTERMEDIATE STATIONS ON THE EAST INDIAN RAILWAY.

1590. *Pandit Satyendra Nath Sen: (a) What is the rule for reserving a berth from an intermediate station on the East Indian Railway? Is the passenger bound to pay fare from the station from which the train starts or can he pay fare from the station from which he intends to entrain, taking the risk as contemplated in the last paragraph of rule 14 on page 184 of East Indian Railway Time Table?

(b) If the latter, will Government be pleased to state, whether any instruction can be issued by the Divisional Superintendent, to the booking clerk of an intermediate station to realise fares from the starting station of the train, from a passenger who entrains at an intermediate station although he is willing to take the risk as contemplated in the last paragraph of rule 14 of page 184 of the East Indian Railway Time Table?

(c) If the answer to part (b) be in the affirmative, will Government be pleased to state under what rule such instructions are issued to the booking clerk of the station from which the passenger wishes to entrain?

(d) If the answer to part (b) be in the negative, do Government propose to put a stop to the practice of issuing such instructions by Divisional Superintendents?

Mr. P. R. Rau: (a) Rules regarding the reservation of such berths are contained in the Time Table issued by the East Indian Railway and available for sale to the public. According to these rules, a passenger can pay the fare from the station at which he intends to entertain, provided he accepts the condition that the Railway assumes no liability in the matter in the event of the berth required not being available.

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

Mr. M. Maswood Ahmad: Are Government aware that now-a-days no first and second class compartment is attached at the headquarters of Bihar and Orissa, Patna, for the upward journey on the East Indian Railway?

Mr. P. R. Rau: No, Sir; but I cannot understand how that arises out of the question.

Mr. M. Maswood Ahmad: The original question relates to the reservation of berths on the East Indian Railway and so this supplementary question arises. Are Government aware that this question has been raised on the floor of this House since two years at several times and on several budget occasions?

Mr. P. R. Rau: Probably it will be raised in the next Budget Session too.

Mr. M. Maswood Ahmad: Of course, it will be raised if Government will not listen to our grievance. Will Government ensure that a Member coming from Patna will be paid fare from Calcutta if the seat is reserved from there?

Mr. P. R. Rau: That is a question for the Legislative Assembly Department.

Mr. M. Maswood Ahmad: I am not asking you because you are the Finance Member for the Railways. I ask the question from the Government. Do they realise the defect in the rule and do they realise the troubles of the public of Patna.

Mr. Amar Nath Dutt: Part (b) inquires whether the booking clerk can be instructed to realise fares from the starting station for a berth reserved from an intermediate station. I want to know whether there are any such instructions?

Mr. P. R. Rau: I understand the intention of the question is to point out that the Divisional Superintendent is not obeying the instructions laid down by the Agent. I am, therefore, communicating a copy of this question to the Agent of the East Indian Railway to see that his instructions are followed.

Mr. Amar Nath Dutt: What I say is that there is no warrant for issuing such instructions. If the booking clerks at intermediate stations want fares from the starting stations, will Government stop it?

Mr. P. R. Rau: That is why I am sending a copy of the question to the East Indian Railway. It is in order to see that the subordinate staff do not collect from the passengers more than they are entitled to.

REMOVAL OF THE PETROL PUMP INSTALLED NEAR THE BAIRD ROAD CROSSING IN NEW DELHI.

1591. *Mr. S. C. Mitra: (a) Will Government be pleased to state whether the New Delhi Municipal Committee enforces the traffic bye-laws within the area under its jurisdiction?

(b) If the reply to part (a) be in the affirmative, is it a fact that some 15 motor lorries belonging to the Municipality stand every morning near the Baird Road crossing close to the shop of Best Cheap and Co., New Delhi?

(c) Is it a fact that these motor lorries stand there for the purpose of taking petrol from a petrol pump installed there?

(d) Are Government aware of the inconvenience to the public which the motor lorries cause by way of closing traffic for a considerable time at so congested an area?

(e) Have Government considered the advisability of having this petrol pump removed to a more spacious quarter and thereby save the residents of the locality from the inconvenience and their children from the danger of being run over by motor cars coming to the place for the purpose of taking petrol.

Mr. G. S. Bajpai: With your permission, Sir, I shall answer all the parts of this question together. The New Delhi Municipal Committee do

enforce traffic bye-laws within the area under their jurisdiction. The petrol pump referred to by the Honourable Member is located on a site which is no more dangerous to the public than any other that might be chosen. Lorries and cars, which take petrol from this petrol tank which is on the kerb of the road, stand alongside of it and then only for a short period in order to refuel. Motor lorries belonging to the Municipality presumably do likewise although the number of them that do so is not known. However, if the Honourable Member will mention to me any specific instance or instances in which motor vehicles have disregarded the convenience and safety of the general public when making use of this particular pump, I shall bring them to the notice of the local authorities.

UNSTARRED QUESTIONS AND ANSWERS.

RETRENCHMENT OF POSTAL OFFICIALS IN SIMLA.

220. **Mr. M. Maswood Ahmad:** With reference to the reply to starred question No. 1087, dated 9th November, 1982, will Government be pleased to state:

- (a) if it is a fact that many of the retrenched officials in the Postal Department, Simla, were retrenched on account of serious charges against them; and
- (b) if it is a fact that those retrenched on the ground of economy were not retrenched from other communities because other communities were inadequately represented?

The Honourable Sir Frank Noyce: (a) No.

(b) This part of the question is not clearly understood; but it will perhaps meet the Honourable Member's point if I explain that in the Punjab and North-West Frontier Circle, as elsewhere, the general principle approved by Government has been observed, that the proportions in which the minority communities are represented in the service should not be materially affected by the process of retrenchment; but that where there was room for the exercise of discretion a small allowance has been made in favour of some of the minority communities which were only slightly represented in the service.

REPLACING THE APPOINTMENT CLERK AND TOWN INSPECTORS OF POST OFFICES OF SIMLA BY MUSLIMS.

221. **Mr. M. Maswood Ahmad:** (a) Is it a fact that up to 10th September, 1982, the Town Inspector, South was a Hindu and prior to 20th March, 1982, both the Town Inspectors of Simla were Hindus for a long time and that the Appointment Clerk prior to July, 1982, was a non-Muslim?

(b) How many Muslim Appointment Clerks are there in the Punjab which is a predominantly Muslim Province?

(c) Are Government aware that where Hindus are Appointment Clerks or Town Inspectors it has become a cause of many a grievance among Muslim employees? If so, are Government prepared to arrange to remove these grievances by replacing the Appointment Clerk and Town Inspectors by Muslims?

Mr. T. Ryan: (a) The facts are substantially as stated by the Honourable Member.

(b) The term 'appointment clerks' is really a misnomer as the clerks so designated have no power of appointment but are merely in subordinate charge of that administrative branch of an office which deals with questions of staff and establishment. The designation of the posts will be suitably altered so as to prevent misconception. Of the 23 clerks in charge of such branches in the Punjab, twelve are Muslims.

(c) No. The latter part of the question does not arise.

SPEECH DELIVERED BY KHAN SAHIB MALIK KARAM DIN, TELEGRAPH MASTER, LAHORE, IN THE MEETING OF THE INDIAN POSTS AND TELEGRAPHS MUSLIM UNION, LAHORE.

222. **Mr. M. Maswood Ahmad:** (a) Are Government aware that:

- (i) the speech mentioned in the starred question No. 1109 asked in the Legislative Assembly on the 14th November, 1982, does not appear in the said question in the same wordings as it is in the *Postal Advocate*;
- (ii) there is no such sentence as 'crafty and wolves in sheep's clothing belonging to a class which measures everything in rupees annas pies and feeling no scruples to achieve their end;' in any one place in the speech;
- (iii) phrases from different places have been taken and joined together; and
- (iv) from some portions of the speech certain words are omitted?

The Honourable Sir Frank Noyce: (a) (i) The question to which the Honourable Member refers did not purport to reproduce the speech *verbatim* but merely quoted its more objectionable features.

(ii), (iii) and (iv). Do not arise.

NON-APPOINTMENT OF MUSLIMS IN THE CAWNPORE GENERAL POST OFFICE AND GENERAL TELEGRAPH OFFICE.

223. **Mr. M. Maswood Ahmad:** Is it a fact that in contravention of Government of India's clear and repeated orders regarding recruitment of minority communities by reservation of seats, not a single Muslim was appointed in the Cawnpore Government Telegraph Office as a clerk whereas four Hindu Time Scale clerks were appointed in that office and three outsider Hindus were appointed as lower grade clerks in the General Post Office, Cawnpore?

The Honourable Sir Frank Noyce: As regards the first part of the question, the fact is not exactly as stated. Recruitment of clerks for Telegraph Offices is made on a Circle basis. Out of the total number of 16 clerks recruited for Telegraph Offices in the United Provinces Circle since November, 1927, including the four clerks of the Cawnpore Government Telegraph Office, six belonged to minority communities, of whom five were Muslims.

As regards the latter part, the fact is that three former approved candidates for the Upper Division clerical service, all of whom were

Hindus, were appointed to act as lower division clerks in consideration of their previous service. I am taking up the question of communal representation in the case of such appointments.

COMMUNAL COMPOSITION OF CERTAIN STAFF OF THE GENERAL POST OFFICE, GENERAL TELEGRAPH OFFICE AND RAILWAY MAIL SERVICE, CAWNPORE.

224. **Mr. M. Maswood Ahmad:** (a) Will Government be pleased to place on the table a statement showing the communal composition of (A) Cawnpore Head Post Office, (B) Cawnpore Government Telegraph Office and (C) Cawnpore R. M. S. under the following heads:

(i) Cawnpore Government Post Office—(1) Selection Grade appointments, (2) Clerks, (3) Postmen, (4) Inferior Servants, (5) Stamp Vendors and (6) Lower Grade clerks.

(ii) Cawnpore Government Telegraph Office—(1) Clerks, (2) Delivery Peons, (3) Linemen, (4) Line Inspectors, (5) Sub-Inspectors, (6) Telephone Operators, (7) Electric Mistries and (8) Boy Peons.

(iii) Cawnpore R. M. S.—(1) Sub-Record Clerks, (2) Head Sorters, (3) Sorters and (4) Peons?

(b) Will Government be pleased to state how many vacancies occurred in Cawnpore in each of the above three offices under each head since 1927?

(c) How many Muslims have been appointed there since 1927 in each of the above three offices under each head as mentioned?

(d) How many members of minority communities other than Muslims have been appointed since 1927 in the above three offices under each head as mentioned above?

The Honourable Sir Frank Noyce: (a), (b), (c) and (d). Information is being collected and will be laid on the table of the House in due course.

FILLING UP OF VACANCIES OF INSPECTORS, RAILWAY MAIL SERVICE, IN THE SIND AND BALUCHISTAN CIRCLE.

225. **Mr. M. Maswood Ahmad:** (a) Is it a fact that there have been three vacancies of Inspector, Railway Mail Service, in the Sind and Baluchistan Circle, two of which were vacated by Muslims and the third by a Hindu?

(b) Is it a fact that the appointments of Inspectors are earmarked by the Director General for the junior candidates?

(c) Is it a fact that all the three vacancies were filled in by Hindus, two by promotion from Railway Mail Service clerks and the third by importing a Muslim already provided in selection grade in a permanent vacancy in the Director General, Post and Telegraphs Office, and providing a Hindu in the consequent vacancy?

The Honourable Sir Frank Noyce: (a) Yes.

(b) The Honourable Member is referred to the reply to parts (f) and (g) of Mr. S. C. Mitra's starred question No. 792 in this House on the 14th March, 1932.

(c) Yes, assuming that by the Director General's office the Honourable Member means the office of the Director of Posts and Telegraphs, Sind and Baluchistan Circle: I may, however, remark that appointments to posts of Inspectors and to the selection grade are made by promotion and the orders regarding communal representation apply only to recruitment and not to promotion.

RETIREMENT OF MR. HAYMAN, MEMBER, STAFF DUTIES, RAILWAY BOARD.

226. **Mr. M. Maswood Ahmad:** (a) Has the attention of Government been drawn to the news published in the *Hindustan Times* of 18th November, 1932, about the retirement of Mr. Hayman?

(b) Will Government be pleased to state whether it is a fact that Mr. Hayman, Member, Staff Duties, Railway Board, is retiring from his post in the Railway Board?

(c) Will Government be pleased to state the communal composition of the Commissioners of the Railway Board including Chief Commissioner and Financial Commissioner?

(d) Do Government propose to consider the claims of the Muslim community while filling the office of the Member, Staff Duties, when in future vacancy may occur?

The Honourable Sir Joseph Bhore: (a) Yes.

(b) Mr. Hayman is now on three months's leave preparatory to retirement.

(c) The Board is not constituted on a communal basis. At the present time there are two Europeans and one Indian on the Board.

(d) In filling this selection post the first consideration is efficiency, but other things being equal other factors will be given due weight.

**RESOLUTION RE TRADE AGREEMENT SIGNED AT OTTAWA—
contd.**

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order. Before the debate on the Ottawa Agreement is resumed, the Chair wishes to point out that the Standing Orders lay down a certain procedure in regard to the discussion on Resolutions. That procedure is that each Honourable Member is entitled to speak on a Resolution for 15 minutes only; except the Mover and the Member-in-charge of the Department concerned. The Standing Orders further provide that an Honourable Member who has once spoken cannot speak again on that Resolution. When the Ottawa Agreement was before the House on the previous occasion, the Chair, recognizing the importance of the subject, did not restrict speakers to the time-limit of 15 minutes but allowed considerable latitude to Honourable Members to deal with the subject in full. In resuming discussion, certain difficulties arise. About 38 Honourable Members spoke on the Resolution and on the amendments moved thereon during

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[Mr. President.]

the previous discussion. According to the Standing Orders, all of them have lost their right of addressing the House again. The House decided to refer the matter to a Committee, and that Committee has now reported to the House. On that Report, notice of further amendments has been received. The Chair proposes to lay down the following procedure. With your consent, the Chair will call upon Sir Hari Singh Gour to move the amendment of which notice has been given by three Honourable Members. When that amendment is before the House as well as the further amendments which appear on the order paper, the Chair proposes to allow the Honourable Members who spoke on the previous occasion to speak again but they will have to restrict themselves to the new matter introduced, namely, the Report of the Committee. Honourable Members who have not taken any part in this discussion will be allowed, as a special case, to speak a little longer than the 15 minutes time-limit. (Loud Applause.) Then, in regard to those Members of this House who were members of the Committee and who have not already spoken, will not be restricted exactly to fifteen minutes (Applause), but will be allowed a certain amount of latitude at the discretion of the Chair, provided always that they will restrict themselves to the new matter introduced by the Report. I take it that the House is agreeable to the procedure which the Chair proposes to adopt. (Loud Applause.)

Sir Hari Singh Gour (Central Provinces Hindi Divisions: Non-Muhamadan): Sir, I beg to move the following amendment that stands in my name:

"That after the words 'the 22nd September, 1932' the words 'and approving the Report of the Committee set up by this Assembly on the 10th November' be inserted, and that at the end of the Resolution the following be added:

'and further that he do give effect to the recommendations of the said Committee'."

Sir, as the time at my disposal is short, I shall very briefly state to the House what the Committee have decided on the subject of this Agreement. Honourable Members are aware that on the last occasion when we debated this Agreement, many of us expressed ourselves as being against the Agreement, and it was in consequence of that expression of opinion that the Honourable the Commerce Member acceded to our request to take the matter to a Committee of this House so that the Committee might have the chance of examining it in the light of such evidence as we might be able to take. Sir, we have been able to examine some witnesses but in spite of the extension of time that the House was able to give the Committee, we were not able to deal with the question with that exhaustiveness which the importance of the subject demanded. We should have very much liked, and I know some friends behind me would have liked, that this matter should not be hurried on, but the difficulty with which we were confronted is this. It takes two to make a contract, and it, therefore, takes two also to defer the ratification of the contract. We were assured that the matter was regarded by the other party to the contract as being of an important character and any further grant of time or postponement of ratification as out of the question. In that view, we were left with no alternative but to do the best that we could with the materials before us and the evidence of the witnesses we had summoned for examination. Of the many brochures written on the subject, a few

of them must be before Honourable Members, and we glanced through these as much as we possibly could and examined the authors of three of them, and the result that we found was that while a great deal can be said of both sides of the question, those who said that the Agreement was advantageous to India and those who said that the Agreement would be disadvantageous to India were both speculating and conjecturing and guessing. Let me now give to the Honourable Members the exact words of Professor Ghosh's evidence. The question was asked:

"Is there any other country which presents a parallel and which may furnish the data upon which we might be able to act?"

The answer was:

"No, Sir. I do not think there is any parallel; and even if there is any, the conditions before 1841 were so different from those obtaining today that any parallel existing will not be of much use to us."

Then to the question:

"Consequently it comes to this, that no precedent and no *a priori* facts can be found, and everything has to depend upon conjecture and speculation?"

The answer was:

"To a large extent of course."

Sardar Sant Singh (West Punjab: Sikh): On a point of order, Sir. I ask the ruling of the Chair on this point. The evidence referred to has not been supplied to us. The gentlemen who have seen the report of the evidence may read only the portion thereof which is favourable to their views, while the other portion may remain undisclosed. May I know if an Honourable Member is entitled to read from the report of that evidence when the copies of evidence have not been supplied to us?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Chair's main object is to enable the House to give a considered judgment on all the facts that can be placed before them. The Chair proposes to allow all the Members of the Committee, those who have signed the majority report and those who have signed the minority report to give as much information to the House as possible in order that they may be able to reach a considered decision on this important subject.

Sir Hari Singh Gour: Sir, as I have said, it is not only in the recorded evidence of witnesses, but in the published books of which 12 Noon. Honourable Members have been supplied a copy by their authors that this fact is admitted. It is a future contract; it is a contract which, according to the Agreement, will last for three years. As to what would be its effect during the next three years can only be a matter of speculation and to some extent of calculation. That is the position. Now, in these circumstances I ask Honourable Members one question. Here is an Agreement which has been offered in which it is conceded on both sides that India has something to gain. The quantum of gain is a matter of difference. Even the minority report has conceded that. The next point is: if we are of opinion that this is an Agreement upon which we are entitled to say that India has something to gain—and we do not know how much—and we further find that in the field of economy throughout the world India stands to lose if we lost the United Kingdom market, shall we or shall we not be justified in giving this Agreement a trial for

[Sir Hari Singh Gour.]

a period of three years. That is a short question before the House. Sir, even on the last occasion when we examined this Agreement, many of us expressed our views that upon the data furnished to us it was impossible to come to a conclusion as to whether this Agreement deserved to be ratified or repudiated. That position became unassailable as we entered the Committee, but when we examined the evidence and conferred with our colleagues, we were convinced that it is one of those Agreements in which it was to the advantage of India that it should be given a fair trial. Honourable Members will remember that we are not ratifying this Agreement for all time. Honourable Members will not forget that we have made safeguards from the beginning to the end giving the Legislative Assembly a complete and decisive control over this Agreement, a precedent which Members of this House will be able to appreciate.

Let me categorise in a few words what we have decided and what this Assembly is called upon to ratify. It is a temporary or provisional ratification for a period of three years at the maximum. And this preference is not to be a preference without any conditions. The conditions are, first, that our own tariff policy and our policy of discriminating protection to the indigenous industries of this country remains unaffected by this Agreement. Our first duty is to our country: our first duty is to see that our industries do not suffer and we have put this in the forefront and as a condition precedent to the ratification of this Agreement. Honourable Members will find that in paragraph 13 of the majority report, we have further provided that no additional burden should be placed upon the consumer or the tax-payer by the re-shuffling of the customs duties. That we have provided in paragraphs 14 and 16. We have further made a provision that the Government of India should keep a watch on the trend of prices, the course of business and to see how this Agreement in its working affects agriculture, trade and industry in this country. That we have provided in paragraph 15. And we have further provided that at the end of each year, the Government of India should draw up and publish for the information of this House an annual report supported by statistics which they will collect for the purpose. That we have provided in paragraph 17. Then we have instituted a Vigilance Committee of not more than 15 Members of this House whose duty would be to keep a watch upon the course of trade and examine the annual report, and we have further given them the express right of examining such representatives of agriculture, industry and commerce as they may consider necessary for the purpose of furthering the object which they have in view. I consider that a great gain, because the inquiries that we were unable to make for want of data will be collected while the Agreement is in operation. These data will be furnished to the Committee. The Committee will then examine witnesses and, after examining them, draw up a report and submit it to the Legislative Assembly. That Honourable Members will find is embodied in paragraph 19. And last, but not least, we have, for the first time in the history of constitutional development of this country, made the executive Government of India responsible to the popular Chamber in this matter. We have provided that if, at the end of three years, the Legislative Assembly decides that this Agreement should terminate, then the Government of India undertake and bind themselves to give a notice in accordance with Article 14 of the Agreement. I consider, Sir, all these safeguards

individually and collectively as entirely in the interests of India. We have a Committee and the annual report and we have returns submitted to the Legislative Assembly and last, but not least, we have a decisive vote of this House at the end of three years. I find that in the minority report signed by my friend, Sir Abdur Rahim, a reference is made to the fact that we have only provided for the vote of the Legislative Assembly under the present constitution. Honourable Members will find that at page 7. That no doubt, Sir, was in the original draft of which my Honourable friend seems to have got a copy, but as he did not take part in the most pregnant hours of later discussion, having retired to draw up his report, he was unable to see the final draft that we agreed to. That draft was, change of constitution or no change of constitution, this House or its successor which represents the popular voice shall have a decisive vote on the question whether we should or should not continue this Agreement on the expiry of three years. Of course it is a constitutional point, which every lawyer in this House will understand, that if the executive Government suffer from any constitutional disability which precludes their carrying out the Agreement into which they have entered, that is a situation which neither they nor we can foresee. But that apart, the executive Government bind themselves, whether there is a change of constitution or not and whether this Assembly remains as it is or becomes federal as contemplated; this Assembly and its successor will have the decisive voice and vote on the question of denouncing the Agreement on the expiry of three years.

Sir, I wish, therefore, to commend this amendment to the favourable attention of the House. I know that there has been a great deal of agitation in the country, influenced in what degree I know not by political considerations; and even when our friends, the economists, denounced this Agreement, I could discern their political prejudices in the background. Because, when they were faced with the realities of the situation, they were constrained to admit that they were not able to say on any data which they could adduce or upon any arguments which they could advance in the face of facts not existing or even probable, that this Agreement would be to the disadvantage of India. But the question is not merely whether the Agreement would be to the disadvantage of India. The question at the present moment is this: here is an Agreement: shall we give it a trial or not? And, in giving the trial, what do we stand to gain and what do we stand to lose? That is the narrow issue and it is upon that narrow issue that I invite the vote of this House. My friends have quoted the Professors and, as I have said, we have also had Mr. Sarkar, Mr. Vakil and Mr. Ghosh, and other Professors who have spoken on this subject. I have quoted the language of one of them, Mr. Ghosh, and, having done that, I think I am voicing the conclusions to which all the Professors of Economics have come and will come. Having done that, I am constrained to feel that there are many who must be in doubt at the present moment and who might be thinking that these Professors' *ipse dixit* count for much. But speaking for myself, parodying the words of the Persian tent-maker, I say:

Myself, no doubt, did eagerly frequent
Vakil and Ghosh, and heard great argument.
Theories galore, but evermore,
Came out by the same door as in I went. (Laughter.)

Sir, I move.

Mr. J. Ramsay Scott (United Provinces: European): Sir, the constituency which I have the honour to represent has found itself in a quandary in regard to the important proposals now before the House. The majority of my constituents are engaged in industrial enterprise in the United Provinces; and their interests are in the main opposed to those of the large maritime constituencies which are mostly engaged in the importation of goods from abroad. My constituents have been, from the very beginning of the conferences instituted by His Majesty's Government and the Governments of the Dominions, heartily in favour of Empire Preference, or, to use a more modern rendering, Empire Reciprocity, which they feel is essential to the well-being of India and the Empire. They have been, however, perturbed over the method of presentation and lack of safeguards in so far as these safeguards relate to unprotected industries.

Personally I had hoped that Government would have recommended to the House the acceptance of the principle of Empire Reciprocity with a proviso that where similar goods are made in India any degree of preference granted to Empire products would be given by increasing existing duties against foreign imports and not by decreasing duties on products of the United Kingdom. Unfortunately Government have not seen fit to formulate their proposals on these lines, though to me the protection of India's industries against world competition seems not only a reasonable, but a natural and necessary corollary to the present stage of their development.

In the year 1922, the Fiscal Commission approved of the principle of Imperial Preference, provided that it did not interfere with the due protection of Indian industries, and it appears to me that Government have ignored this recommendation of the Commission. Government have before them an admirable example in the United Kingdom Import Duties Act of 1932 in which provision is made to protect not only established and nascent industries, but also, mark you, those which are likely to be established within a reasonable period. My constituents do not press for such far-reaching protection, but seek to safeguard only those industries which have to date been established in this country.

One other serious objection to the Bill is the manner of presentation. It has been rushed through and I submit, Sir, that insufficient time has been given to the industrial community to consider in detail how the proposed adjustment of import duties will affect their interests,—interests which are in point of numbers, in my opinion, most inadequately represented in this Assembly. It is at a time such as this, when important questions affecting the manufacturing industry are under discussion, that one realises how meagre this representation really is. To my mind it is a case of the Exchange Ratio over again. Without desiring to assume the mantle of a prophet, I predict that just as industries are slowly recovering from the havoc wrought when foreign manufacturers were presented with a bounty of 12½ per cent., as a result of enhancing the rupee exchange ratio, these proposals will administer the death blow to many struggling industries.

It cannot be denied that industries, which were on the point of collapse, have, like the famous Sick Man of Europe, lingered on for the last seven years, and today show slight signs of recovery as a result of the protection afforded by the present tariffs, which it is now proposed should be reduced.

I cannot refrain from complimenting the Members of the Ottawa Delegation on their shrewdness and business acumen in excluding from the operation of the principle of Empire preference those protected industries which I observe the Special Committee of this House describes as a noteworthy and desirable feature of the Agreement. It would appear that these strong and well-organised industries, which are able to exercise their power politically, are receiving preferential treatment. I do not object to this preference. I most strongly support it. But I hope that Government will not sacrifice on the altar of Empire preference those industries which have attempted to stand unaided on their own feet—industries. I maintain, which ought to receive every assistance from the Legislature of this country.

The Committee itself complains of insufficient time to consider what, to India, is a proposal of the greatest magnitude. A few gentlemen representing certain interests have been examined only by invitation—other industries have not had an opportunity of presenting their case; but I do not propose to weary the House with an analysis of the report. It contains numerous weak points and expresses many pious hopes; but the essential point is that the Committee assert that only experience can prove what the actual benefits are likely to be. That I desire to emphasise and as forcibly as I can. To those of us who have an intimate knowledge of Indian industries no further experience is required to prove most conclusively that in regard to a number, at any rate, a reduction in the existing scale of duties will finally eliminate those concerns which may be described as *in articulo mortis* after years of struggle against dumping tactics and manipulated exchanges.

Sir, I maintain that co-operation between Government and industry is essential for the well-being of the country and, as examples of what can be done in this direction, let me instance the progress of German industries prior to the war, the advance of Japan during the last quarter of a century and the development in Italy in the last decade under the régime of the Fascists.

I should here like to draw attention to a leading article in the Delhi edition of the *Statesman* of the 29th November, with the headline "Ottawa and Cawnpore", in which an entirely false impression has been given of the attitude of the European community of Cawnpore. From the very first they have always said that they do not oppose the principle of the Resolution.

An Honourable Member: Who is the Editor?

Mr. J. Ramsay Scott: My constituents do not desire to be charged with a lack of patriotism, 5 per cent. patriotism if you like (Laughter) either as regards the land of their adoption or their mother country, nor do I wish to desert those Indian gentlemen who have supported the efforts to find a formula, which, while accepting the ideal of Empire preference, would at the same time safeguard the industries of India. As, however, the Special Committee have recognised the just claims of Indian industry in paragraphs 14, 15 and 16 of their Report, it is now clear that the door is not close tiled and that those industries which require special consideration will receive sympathetic treatment from Government. I shall, therefore, vote for the Resolution and urge those who are at the moment in opposition to Government to do likewise. (Cheers.)

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Mr. Jog has given notice of an amendment: but he is not present. Notice of a further amendment has been given by Shaikh Sadiq Hasan: the Chair must rule it out of order, because it is indefinite. The rules applying to Resolutions must necessarily apply to amendments on Resolutions. Amendment, which are vague and indefinite as this is, cannot be allowed to be moved.

Shaikh Sadiq Hasan (East Central Punjab: Muhammadan): Sir, I have been asked by several of my friends whether this arrangement is going to benefit the carpet trade. To them my answer is that there is not the least doubt that it will help the cheap grade carpets, but whether it is going to help the higher class, is doubtful. As I am myself interested in that industry, I think I ought to lay my personal feelings aside and consider this question from the point of view of the country which is more momentous than one industry concerned. (Cheers from the Independent Party Benches.) In 1903, Lord Curzon's Government were definitely against this preferential arrangement. . . . (An Honourable Member: "Thirty years ago.") Later on, the report of the Fiscal Commission was also of the same opinion. Of course with the change of times opinions also can change, and we have to see whether the conditions prevailing at the present time are such that we should accept this preferential arrangement or we should not. In the country there has been some cry against the personnel of the Delegation. The Delegation consisted mostly of Government servants, either in Government service or those who were in Government service and some Members from here who were nominated by the Government. But we have to judge from the results and not from the personnel. I would take up the question of exports first, where India gets preferential treatment. In the case of tea, I admit, it is going to benefit India; but as we all know tea is an industry which is mainly supplied by British money; and so the main benefit even in this case is going to the British people in England. . . .

Mr. K. Ahmed (Rajshahi Division: Muhammadan Rural): What about labour?

Shaikh Sadiq Hasan: They get two annas a day.

Mr. K. Ahmed: No, it is ten annas and more. But how much do you pay your men at the carpet factory? Three annas a day I suppose.

Shaikh Sadiq Hasan: I pay twelve annas to my men.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Chair would like to bring to the notice of Honourable Members that this Resolution was discussed for four days on the first occasion and it is desirable that the House should reach a decision within reasonable time. The Chair wishes, therefore, to appeal to Honourable Members to abstain from interrupting speakers when they are addressing the House, as that unnecessarily prolongs the discussion.

Shaikh Sadiq Hasan: Now, the second important item in export is oil seeds. I would like to say that so far as linseed is concerned, it is going to benefit the trade; but, on the other hand, ground nuts are bound to be hurt, because the main consumer of ground nuts is France and not England.

The opinion of the Seeds Trade Association which should carry some weight is that the Agreement is injurious to their trade, because the United Kingdom purchases only 13 per cent. of our exports, whereas other countries buy 87 per cent. of our exports.

As regards cotton which, I may say, is the most important of our agricultural products of the Punjab, I would point out that England buys only four crores out of 65 crores worth of export, and Japan is our largest buyer, but we find that, as a result of this Agreement, Japan is now-a-days refusing to buy cotton in Lyallpur, and the result would be that as England would not consume the short staple cotton, there is bound to be a fall in the price of cotton to a large extent and, consequently, our agricultural interests in the Punjab would suffer considerably.

Now, let us take the case of Hides and Skins. There are quite a large number of commodities which we export, but I am only taking the case of most important ones. As regards hides and skins, the Majority Report says that hides and skins should be benefited, but there is a great market for hides and skins in Germany, and the United States of America buys skins to the extent of some crores every year. Is it possible that when there is discrimination against the United States of America and Germany, they will keep quiet? Already I suppose they must have made arrangements with countries like Argentina, and the result will be that there will be another fall in the price of these commodities. As I said, Sir, there is bound to be some benefit to some of these exports which we send to England, but at the same time we should be careful about retaliation by foreign countries. If we are going to make certain arrangements with England, there is no earthly reason why foreign countries should not make arrangements with other countries and thus benefit their country at our expense. There was a time when England used to buy large quantities of our goods, but now-a-days our trade with England is dwindling. We find that whereas England used to buy more than three-fourths of our commodities, they now buy goods to the extent of 33 per cent. only and the rest are bought by foreign countries. The question is this: is it safe, is it wise, to have only one customer instead of having so many customers? I might say that personally I have suffered in this matter. I had always got only one customer for years and years, whereas several of my friends who had more than one customer are getting on very well, because they had not two strings but three strings to their bow.

The second point is about the preference which is going to be given to English imports in this country. I can understand the point of view of the British Government in India, but what I cannot understand is the point of view of the elected Members of this House. (Laughter.) Honourable Members of the Treasury Benches are absolutely entitled even to agree blindly to whatever the British Government in England dictate, because, after all, they are the paid servants of the Government in England, and they are not our servants. . . .

An Honourable Member: They are paid by us.

Shaikh Sadiq Hasan: While the gentlemen who went to the Select Committee had not even sufficient time to study the whole question, as they themselves admit, and to find out what the effect of these preferential duties on the imports from England will be to India, and yet they say they approve of this Resolution. Surely I think something which concerns

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our industry, and which affects our labour, is far more important than a few petty gains which we can expect from this export trade. In this case the question of millions of labourers is involved. I do not say for a minute that discrimination is not good for a country. I think discrimination is a very good thing for a country, because there is no earthly reason when a country like France gives preferential treatment to a country like Persia and treats our country in a hostile manner, why we should not treat France or pay France back in the same coin or in the same way any other country which discriminates between India and other countries? On the other hand, if there is a country like the United States of America which does not discriminate between India and other countries, and which is a big customer of India and which really cannot compete with India in Indian industries, there is no reason why we should discriminate against it. We surely do not dare or should not care for the resentment of such discriminating countries if it is in the interests of India itself. On the other hand, if we are only discriminating in order to benefit the English manufacturer, certainly I would object to it.

Now, let us see if some of our industries, through this preferential treatment to English goods, are going to be worse off or are going to suffer. Take the case of the aluminium industry. I have received a pamphlet as so many other Members have, from the manufacturers of aluminium wares, and I find that they have raised a great objection, because preference is going to be given to aluminium in India, as they contend that English people and Canadians have got their factories in India, and if you are going to give preference to English aluminium, the result will be there will be a monopoly in the hands of English and Canadian firms, because when the supply of material is in their hands, they are bound to destroy the aluminium industry in India, and I think there is some force in this argument.

Now, take the case of woollen industry. I find from a private memorandum that we cannot afford to give preference even to the extent of 5 per cent. to English goods and consequently woollen manufacturers think that they would suffer. These are the two industries which have protested, but I am positive that if full inquiry is made, if the Select Committee had the time to think of these problems, I am sure they would have found that many other industries are going to suffer by this preferential treatment.

There is one thing which I want to bring to the notice of the House, that preference is going to be given to a large number of manufactured goods, and many of these can be manufactured in India and which should be encouraged, if not for the development of indigenous industries, at least with a view to provide employment to millions of starving people in this country. One danger which I consider as something very serious is this, that preference to English goods would retard the industrial development of our country, and that Government would become indifferent in developing the indigenous industries. That is not a new thing. India was always a great industrial country. It was not only an agricultural country, but it used to export manufactured goods in the days of the great Moghuls, east and west. (An Honourable Member: "Even before that.") My Honourable friend says, even before that. I say, yes, even before that, because Indian cotton goods used to be sent to Egypt even in 500 B.C. In the days of the Moghuls, there was a great

shipping industry. In the days of the Moghuls, manufactured goods were exported. What I want to say is that India was not only an agricultural country, but she was also an industrial country. While great regard should be paid to the agriculture of the country, its industrial side should not be forgotten, and it is only in that way that you can make the starving peasantry of India get some employment and the congestion in the villages would be relieved. There is another consideration, that is the effect on the consumer. While we are thinking of the advantages or disadvantages of these exports and imports, we should not also forget what effect this preferential treatment will have on the consumer. I am afraid he will have to pay more price. If he pays more price to develop the industries of our own country, there should be no objection, because in that case it would give employment to him and his kith and kin, and what he had paid in the shape of higher prices would come back to him in another direction. On the other hand, if it is only going to give help to the English manufacturer, it is not right and fair to put an extra burden on the consumer. Are we going to give more employment to Indians by this Agreement? If we could give more employment to Indians by this arrangement, then certainly it should be accepted. But, as I have already pointed out, if we accept this arrangement, it would retard the industries of the country, and, therefore, it is not going to give more employment, and on that ground also this arrangement fails. As my time is over

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Please conclude as early as possible.

Shaikh Sadiq Hasan: My main argument is that India is a self-sufficing country. India is an economic unity. India produces raw materials of all kinds. India has got coal, she has got iron, our one idea should be, not so much towards preference, as to industrialise the whole country. We should try to develop, and Government should help,—which I doubt,—the industrialisation of our country. While Government are spending crores and crores on various items, they are doing absolutely nothing for those millions of people who are starving in the country, who have not enough to eat. I had a talk with the Honourable Minister in charge of Local Self-Government, Punjab, who happens to be the Minister in charge of Industries as well, and he was also complaining that the Government were starving the Department and would not give them large sums of money.

An Honourable Member: Which province?

Shaikh Sadiq Hasan: Of the Punjab.

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions: Non-Muham-
madan Rural): Of every province.

Shaikh Sadiq Hasan: I do not know about the other provinces; I only know of the Punjab. I shall just sum up what I have got to say. So far as our exports are concerned, I think we are not going to benefit, because there is only going to be a diversion of trade. As for imports, some of our industries are actually going to suffer, and the others are going to be retarded on account of this arrangement. The consumer will

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have to pay a high price, not for the benefit of his own countrymen, but for the benefit of the English people. Besides that, we are not going to give more employment to our people by this arrangement. I, therefore, submit that the arrangement is one-sided, and our hands are tied up and we shall always have to keep the British Government in good humour if we accept this Agreement.

Raja Bahadur G. Krishnamachariar (Tanjore *cum* Trichinopoly: Non-Muhammadian Rural): I am not an economist, nor can I pretend that I have read the subject in a manner that I could deal with it to any very great or useful purpose before this Assembly, but, Sir, I feel so strongly upon the matter that in spite of my ill-health, in spite of the doctor's advice, I have come all the way here to record my protest as strongly as possible against this Agreement, and that is why I have stood up to speak.

There is a saying in English which runs: "Heads I win, tails you lose". This Agreement is an example of that saying, but put in nicely worded language, first, by the original long printed document, and next, by the Majority Report of the Committee of this Assembly. Between them it is, however, hopeless to find out any reasoned argument to convince the man in the street like myself that this Agreement is going to help either the industrialist or the agriculturist, or any portion of the community except the British Government 8,000 miles away, who, it will be noted, have very nicely complimented our representatives for having made a present of, I believe, £18 millions just at a time when they are having trouble over their trade depression. Sir, I entirely agree with the Honourable Member who has just sat down, that in the olden days, India was as much an industrial as an agricultural country. Our industries were mercilessly crushed. It is a long story, it is a painful story, and I do not know if I shall not be justified in saying, it is also a shameful story. That story has been succinctly recorded in the dissenting minute of our venerable leader, Pandit Madan Mohan Malaviya, and, whoever is interested in that past history, may refer to the Report of the Indian Industrial Commission in which the dissenting minute of the Pandit brings the story down to the year 1918. At that time it paid Great Britain to be a free trade country and everything that would go to militate against that principle has been crushed with an iron hand, crushed with merciless cruelty, even to the extent that the thumbs of the Bengal workers had been cut so that they might not compete with the manufactures of England.

An Honourable Member: It is not correct.

Raja Bahadur G. Krishnamachariar: I am sorry if I am making an incorrect statement, but whoever doubts it can look at the history of the thing and, if necessary, later in the day I can produce my authority.

An Honourable Member: They cut the thumbs themselves.

Raja Bahadur G. Krishnamachariar: Well, about that, I can give you a little bit of a story even in recent times. It is a story which always

repeats itself and which will never die. It is this. Ten years ago, there was a drought in my part of the country and we were not able to cultivate our lands. We sent a petition to the Collector asking for remission. The Collector was a fine man. He sent for me and made me sit down and, after five minutes talk, he told me: "Mr. Krishnamachari, I cannot give you any remission". I asked him, why. He said: "Because, you would not cultivate your land simply to obtain remission". His reason was that in order to escape paying out one-third of the value of my produce, I would not take the other, but cussedly lose the other two-thirds. That is the sort of mentality which I thought ruled only one portion of the community and I find that there is also another portion of the community which supports that mentality. However that is neither here nor there. So England established her industries in that way. They were on the top of everything. Free trade worked beautifully well. Unfortunately the war came. England got into trouble. We do not gloat over it. We did help England in the war. England found herself in difficulty for no fault of hers. She tried all sorts of remedies. Eventually she came back to the old theory of Joseph Chamberlain, that is protection. Now, what has happened? England was a free trade country and now she being in trouble changes into a protectionist country and she says: "You agree or we will impose a ten per cent. duty on all the imports from India".

Mr. Arthur Moore (Bengal: European): India has been a protectionist country for ten years.

Raja Bahadur G. Krishnamachariar: It is what they call discriminating protection. Certain conditions were attached. I should be very sorry to discuss that question now, because my time will be up if I take up that irrelevant discussion now. That is the reason why I do not want to discuss it now. Our delegates who were sent from here were all patted on the back. Great big speeches were delivered and, at the conclusion of the Agreement, they were hailed as statesmen. What is the result? England has got what she wanted at the point of the bayonet,—that is they said "Do you or do you not agree to this? If you do not, we will impose this ten per cent. duty on your imports from the 15th November. There is not much time. You must make up your mind now". I am not drawing upon my imagination. I would respectfully invite the attention of this House to the report that has been placed in our hands some time ago where it says that the position we were faced with is not what India stood to gain, but what India would lose by means of this ten per cent. duty if allowed to be imposed. That is the condition under which this Agreement was made. I am very glad that this Honourable House agreed to the appointment of this Committee though, being my colleagues, I do not want to say much against the personnel. It would, however, have been much better if that Committee had been officially connected with some expert who could give them advice. My Honourable friend, Sir Hari Singh Gour, pooh-poohed the opinion of experts. He put his own knowledge as a lawyer over the practical every day experience of these people who came to represent big commercial institutions and he said they are of no use. Sir, my authority for requesting this House to reject this Agreement is the very report of the Majority of the Committee of which Sir Hari Singh Gour spoke most eloquent. I would just ask this Honourable House to bear with me for a few minutes when I run through these

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clauses and the House will see that I am perfectly justified in my position that this Agreement deserves to be rejected on the authority of that Report. Leaving the introductory portion aside for the present, this is what they say:

"We wish to add that the time allotted to the Committee for its work has been insufficient for a full examination of that part of the Agreement which relates to the preferences given on imports into India."

I am not quite sure whether I am able to follow this, but I suppose it means that they were not able to find out what is the benefit or the loss on the above head, so that they may arrive at a conclusion. Now, Sir, what is the use of this Agreement at all. They then proceed to deal with commodities on which India will receive preference in the United Kingdom and they say this:

"In regard to the preferences on certain commodities, while recognising a possibility that some advantage may accrue from them, the importance which is attached to the value of those preferences should not be exaggerated."

Then, Sir, five articles have been taken away, with this remark that it is not so valuable and, therefore, do not over-exaggerate the benefit that we would get. Then, with regard to five other commodities, they say this: Wheat: Preference on this article is not of immediate value, but we are assured by members of the Committee closely associated with agricultural interests that the inclusion of India within the scope of the preference would be of great benefit. I am only paraphrasing what they say. I do not want to read the Report. I should very much like to ask who were the members of the Committee who were closely associated with agricultural interests who gave that advice. I read the names of the members of the Committee. They are Sir Joseph Bhore, Sir Hari Singh Gour, Mr. Yamin Khan who, I suppose, is connected with agriculture, but I can't say if it is with wheat, Sir Alan Parsons, Mr. Ranga Iyer, Mr. Mody, then Mr. James, then my friend Mr. DeSouza, Haji Abdoola Haroon, Dr. Ziauddin Ahmad, and Sir Zulfikar Ali Khan and Mr. Shanmukham Chetty. Now, Sir, I ask—I am not asking out of any affectation—but

I.P.M. I want to know, as a matter of information, from this Committee who sat down and solemnly wrote this report: "Who were those members of the Committee closely associated with agriculture who gave their opinion that this Wheat Agreement should be upheld even if they found on examination that it was not going to be of any immediate benefit?" Then, with regard to coconut oil, you will be surprised, Sir, to note the way in which the whole thing has been worked out, how even with sufficient time at their disposal and even with a lack of the fullest material, the whole thing crumbled like a house of cards. With regard to coconut oil, this is the position that confronted them. In their Explanatory Note, the Committee say:

"While this explanation would appear to substantiate a conclusion that the preference under consideration would not enable India to enlarge her market in the United Kingdom for coconut oil, we realise that it is necessary to treat the vegetable non-essential oils as a group, in order to arrive at a correct appreciation of the position."

I ask, why? Each article is individually mentioned in this Trade Agreement and I take it that whoever worked up these results and whoever came to this conclusion, thought that every item mentioned was going to produce some sort of benefit to India. Sir, one of the important items

is coconut oil, and, with regard to that, our Committee says that there is no chance of the export increasing, yet, "mix it with something and find out whether there is going to be anything good or bad". Sir, in the olden days when we were in the playground, we used to say to our fellow boys: "you bring the rice and we bring the chaff, and we shall mix them, and then we shall eat it after separating the chaff from the rice". Now, they say, "coconut oil" will not be benefited. Therefore, "mix it with something else just to find out the result". Why? (A Voice: "Cocogem.") Sir, is it to justify the Agreement that has already been entered into? Why do you want to do it? Sir, that is the position with regard to coconut oil. Then, with regard to linseed

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order. The Honourable Member has already had fifteen minutes, and the Chair wishes him to conclude within five minutes more.

Raja Bahadur G. Krishnamachariar: Very well, Sir, with regard to linseed, I was talking to a friend the other day and he said that linseed was a very important item. Now, this is what the Committee says, in effect: "Do not think you can dislocate the Argentine from its position with regard to linseed, and, so far as we can see, there is not much prospect of our being benefited by it", but without counting their host they go on mixing it all together. Now, so far as rice is concerned, its immediate value is negligible, but they say, "the potential value is great". Well, I shall leave the other small items as I am almost out of time. Then there is one gem which ought not to be lost sight of, and that is coffee mentioned in paragraph 4. Now the Committee have a very nice way of working it out. They take the rule of three, and they apply the ten per cent. duty to exports from foreign countries and they say, so much will be kept out, our share at present is two million and it will be three million more, so they add up two and three and arrive at five million, and so they say we are going to be benefited. (A Voice: "Nice arithmetic.") Sir, this is the first time in my life—and I have lived fairly long in this world—that I am told that economic events follow the rule of three. There is only one other item I would touch and that is the tea market. Now, tea is the largest article of export from India to the United Kingdom. It is a rather interesting fact that the conclusion of the Committee is that after all it is not going to be benefited very much, and their remarks about jute surpass everything else, and yet my friend, Sir Hari Singh Gour, asks this House solemnly to accept this Agreement and try the experiment. Sir, during the Currency Commission, we have had a trial of the two shillings and odd increase, and my friend over there, Mr. Ramsay Scott, just now denounced the present 1s. 6d. ratio. Now, time after time, it is the Indian people that have got to be experimented upon by persons who are absolutely unconcerned and ignorant so far as the poor people are concerned and who have no real stake in the country. I am very sorry, there is not much time, at my disposal, otherwise I should be able to show that in respect of commodity after commodity we are not going to be in any way benefited by this Agreement (Hear, hear), and I, therefore, very respectfully and very humbly ask this House to reject this Agreement completely and not to ratify it at all.

Pandit Satyendra Nath Sen (Presidency Division: Non-Muhammadan Rural): Sir, I have the misfortune of being called a Pandit and not only a Pandit but an orthodox Pandit. Sir, as such, I am dead against

[Pandit Satyendra Nath Sen.]

speculation, especially when that speculation smacks of an unholy character. Sir, this Agreement is a speculation, because it asks us to leap blindly in the dark, as has been admitted this morning by my Honourable friend, Sir Hari Singh Gour. Sir, this Agreement is unholy, because it takes its stand not on merit but on artificial means. Sir, the subject was discussed at some length by economic giants and no unanimous decision could be arrived at. The "majority" members say that they have not been able to examine fully the subject of imports into India, but still they support the Agreement. The "minority" members, on the other hand, with almost unanimous public opinion at their back, oppose the Agreement. Sir, in this state of indecision, I am naturally induced to seek advice from my old savants who say that in matters of doubt, do not introduce an innovation. Sir, this is not my only ground; I have other grounds too. The British Government are playing with us in respect of the grant of self-Government. We do not know when they are going to grant us that privilege. And if they do not, what will be our position? We will have to launch upon the boycott movement, as we did some years ago. Why should we bind our hands and feet to the British Government and displease other countries? Why should we put new shackles on our body at this critical juncture? Sir, my third ground is that this Agreement will hamper the Swadeshi movement. Foreign articles, with the help of these concessions, will dump our market and our Swadeshi products will not be in a position to compete with them. It may be that these foreign articles will be a bit cheaper, but to encourage indigenous products even at a sacrifice is a part of our Swadeshi cult. We had many industries in India. We have already lost many of them, such as the sugar industry and the cloth industry to which reference was made by Raja Bahadur Krishnamachari and we cannot afford to lose more.

Sir, my next ground is the ground of self-respect. I am not in a mood to cultivate an extra amount of intimacy with the Colonies. What is our position there? Every country enjoys the fullest rights and privileges in India, but when we go to those countries what is our position there? We are always accorded a differential treatment. Sir, is reciprocity possible under these conditions? True reciprocity is possible only amongst equals. It may be argued that the United Kingdom and the other Colonies may retaliate on us if we do not ratify this Agreement. My reply to that is that they cannot, because on the whole it is the equality and the cheapness combined that will ultimately count and these two things will count in spite of this Agreement. Even if they retaliate, we can also retaliate in return in many matters such as iron and steel, jute, tea, etc. Sir, even if they retaliate, thousands of doors will be open to us. The world is much bigger than the United Kingdom and the Colonies. And what does this Agreement really mean? It is nothing more than a diversion of business which may also lead to a dislocation of trade at least for some time to come during which period we poor people will be crushed to death. Sir, it may be argued that the results of this Agreement are uncertain. I am prepared not to attribute any dishonest motive to England. It may further be argued that if they are prepared to take some risk, why should we not be prepared to take that amount of risk as well? My reply to this argument is that they are rich people; they can afford to make an experiment. We are poor people and we cannot afford to make such a ruinous experiment.

Sir, the amendment of Mr. Raju seeks to refer the matter to the Tariff Board. I do not have much faith in that body especially when the interests of England are in question. I would, therefore, support Mr. B. Das' amendment and oppose the Resolution and the amendment that is just proposed. Before I resume my seat, I will inform the House of one thing that strikes me. Amongst the Hindu sacred books, there is a work named the "Bhavishya Purana" which narrates the things which will occur in the future. In this Purana I have come across a statement which says the following in reference to foreign rulers:

"Te praja bhakshayi shyanti arthato na sarivatah."

The meaning is that the future foreign rulers will eat into the vitals of their subjects, not physically, but economically. I think that statement has come to be too true. They want some preference. By the linking of the Indian coin to the sterling which has now very much depreciated, I understand they are already enjoying a preference of about 40 per cent. What more do they expect from us and what more can we give them? We are already on the verge of ruin and we cannot afford to ratify this ruinous Agreement. With these words, Sir, I oppose the Resolution.

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

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

Mr. B. C. Burt (Government of India: Nominated Official): Sir, I should like to correct a statement which was made by the last speaker this morning when he said that the Indian Delegation made the Ottawa Agreement because they were threatened with 10 per cent. Now, Sir, that is an entirely wrong way of putting it. Great Britain put on a 10 per cent. duty on all imports as a revenue measure and as a means of adjusting the trade balance. In India also, Sir, we have in two stages put an extra 10 per cent. duty on our imports, and, in doing so, we gave no country any opportunity for negotiation. We said that it was necessary and we did it, and no one said anything about a loaded pistol or a threat. But, Sir, because the Dominions had for some years urged that Great Britain should adopt a policy of Imperial Preference, the United Kingdom gave an opportunity to the rest of the Empire to secure continued free entry by the method of trade agreements; and so as not to prejudice the conference which was to take place at Ottawa, she continued to provide free entry without agreement until the Ottawa decisions were arrived at. I submit, Sir, that far from being a threat there could have been no more generous way of treating the rest of the Empire.

Now, Sir, I also would like to correct a small mistake which was made relating to coconut oil, and I only deal with these details, because the preference on vegetable oils is one which I consider very important, and one on which the Majority Report lays emphasis. The speaker referred to the paragraph dealing with coconut oil, but he omitted to read the last sentence of that paragraph which explains the whole reason why

[Mr. B. C. Burt.]

coconut oil was included in the preferences. That sentence reads as follows:

"A duty of 15 per cent. *ad valorem* on coconut oil imported into the United Kingdom from non-Empire countries, with free entry for Indian oil, apart from any effect which it may have on the Indian export trade in that commodity, is necessary to render effective the important preference on groundnut oil, rape oil and sesamum oil."

Without a duty of 15 per cent. on foreign coconut oil in the United Kingdom, our other preferences would be discounted.

Now, Sir, I should like to turn to the agricultural side of the Agreement, and I should like to say at once that I am in no doubt as to the value of this Agreement to the Indian agriculturist. And, Sir, I speak as an agriculturist. We have secured preferences on wheat, rice, vegetable oils, linseed, tea, coffee, tobacco, castor seed and groundnuts. On all these articles the majority of the Committee, after full consideration, decided that the preferences were of value. Some they decided to be more valuable than others, but they found them all to be of value. Moreover, we have the undertaking that His Majesty's Government in the United Kingdom will definitely support efforts to increase the use of Indian cotton in England. Further, by virtue of Article I, we not only retain the privilege of free entry for all our produce, but we get a number of unscheduled preferences on such items as barley, pulses and others too numerous to mention.

Sir, it has been said that India will not be able to take advantage of these preferences, because she cannot increase her production and that diversion will be the only result. The Minority Committee's report says:

"In the case of raw products generally the possibilities of expansion, having regard to the actual conditions of Indian agriculture, are more than doubtful."

They also say further:

"We have to bear in mind that it must take time for Indian agriculturists generally to be able to respond to any increased demand."

Now, Sir, I submit that exactly the opposite is the case. We need, immediately, larger markets in the United Kingdom to take the place of the reduced purchase of our products by non-Empire countries. Sir, Indian agriculture has its own difficulties, but it also has certain special advantages and not the least of these is the elasticity of our agricultural rotations. I will not weary the House with a technical description of the reason, but it is largely because we have advantages in both soil and climate. I am certain that there is no country in the world where the area under a particular money-crop can be varied so quickly to meet changes in demand, as in India. To give an example showing the truth of that statement, I will refer to cotton. In 1920-21, the cotton area in India was 21 million acres and it was the same in 1922-23. It then ran up to 28 million acres by 1925-26. Why? In response to increased demand. In 1928-29, the area was 27 million acres. Then the demand fell off, and cotton area decreased to 23 million acres in 1930-31 and to 23½ million acres in 1931-32. Take again the jute crops. As a result of increasing demand, the jute area increased from 28 lakhs of acres in 1926 to 34 lakhs of acres in 1929 and 35 lakhs in 1930. In 1931, there was an immediate fall to 18½ lakhs, that is, a fall of 46 per cent. consequent on the slump in prices and the falling off in demand. And yet,

such is the elasticity of our cropping that the whole of that area was transferred to other crops, and the official records show that the total cropped area in Bengal did not vary appreciably. Sir, I may take one more instance, a crop which has made very great strides during the last ten years and on which we have now secured a valuable preference, the groundnut crop. The area under groundnuts in 1921-22 was two million acres and we produced less than a million tons. In 1930-31, the area was 6,366,000 acres and we produced over three million tons. That, Sir, was in response to increasing demand. These examples show that the Indian cultivator is neither unable nor unwilling to take advantage of new markets if they are offered to him.

Now, Sir, it may be said that, however profitable it may be, this is only a diversion from one crop to another. Our critics are rather fond of that term "diversion". Sir, we have in India a large area of what is called culturable waste. I will not dwell on that point, because Dr. Zauddin Ahmad has dealt with it in his note. But I would remind the House of another and much more immediate reserve of land for cultivation which we have in what is known as the area in current fallows. That area in India is just over 49 million acres as compared to our total cultivated area of 228 million acres, and everyone knows that a fallow of a whole year is not a normal characteristic of Indian agriculture. If we leave out Sind and one or two other areas where irrigation facilities form the limiting factors, the "current fallows" area represents almost entirely land which could quickly and immediately be brought into cultivation with increasing demand. We had an instance during the war. During the war the area under current fallows fell from just under 50 million acres to 45½ million in a period of three years. Then, Sir, we have the double cropped area. It is another advantage of the Indian system of agriculture that much of our land can be cropped twice a year and the double cropped area is an indication of intensive cropping. During the last five years that area has gone up from 30 to 34 million acres and during the war there was an improvement of two million acres in one province alone. In the United Provinces where the average was 8 million acres before the war, there was an increase during the war to over 10 million acres of double cropped land. To pass on to other great reserves for expansion, there is the new irrigated area. In the ten years ending 1929-30 the canal irrigated area in India rose from 26 to 30 million acres bringing the total irrigated area to 61 million acres. I give these figures to emphasise the importance of the figure which I will now quote. The new schemes now coming into operation including the Sukkur Barrage, the Sarda canals and the Sutlej Valley canals and various important schemes in South India will altogether mean an increase of over 12 million acres in our irrigated area. There has been no such important addition to our irrigated area since the beginning of the century and I contend that an additional outlet for our produce is a primary essential. Let there be no mistake about this point: the Indian agriculturist can and will produce the crops and take advantage of any new outlets that this Agreement will give him.

Now, I would like to deal very very briefly indeed with one or two important errors in the Minority Reports. In regard to castor seed, I notice that a claim is made that India here has a complete monopoly: the actual words are:

"We have here a monopolistic position as all the imports are from India. We have no Empire competitors or any other competitor."

Mr. B. Sitaramaraju (Ganjam cwm Visagapatam: Non-Muhammadian Rural): If I may interrupt the Honourable Member, that is only based on the information supplied to us by the Government. If he will turn to page 40 of the notes of figures supplied to us, he will find this statement made—"practically all of which went from India".

Mr. F. E. James (Madras: European): Is that the export book?

Mr. B. Sitaramaraju: This is the Notes on India's Exports supplied to the Indian Delegation.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member's fifteen minutes are running out: please do not interrupt.

Mr. B. C. Burt: I would add one piece of information to that which has just been quoted, namely, that in 1929 the United Kingdom imported 15 per cent. of her castor seed from foreign countries, but in 1930 she imported 45 per cent. from non-Empire sources

Mr. B. Sitaramaraju: May I ask a question?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order.

Mr. B. C. Burt: I am quoting from the Trade Returns of the United Kingdom. Now we turn to linseed; and with a few remarks here I will close. The Minority Report says that they have no information as to the quality of Indian linseed. May I quote what was said about Indian linseed by the Royal Commission on Indian Agriculture which reported in 1928? After an inquiry in England as to the relative position of Indian oilseeds, the Commission said: "Indian linseed is preferred to that of any other country"; I may add that Indian linseed always commands a premium over Argentine linseed in the London market.

Mr. B. Sitaramaraju: Sir, if every Honourable gentleman is as broad-minded as my Honourable friend, Mr. Sadiq Hasan, we would not be discussing this amendment of Sir Hari Singh Gour today. The Honourable the leader of the Nationalist Party in bringing this amendment stated that he brought about a constitutional revolution on the sly, securing the executive responsible to the Legislature. I think according to his own showing he has made out a case for the return of the Round Table Conferencewallas. This constitutional pandit has achieved what several of our countrymen have failed to secure, in spite of their efforts during the last two or three years. I would like to deal very briefly with some points that have been raised in moving the amendment by the Honourable the leader of the Nationalist Party. He has said that he was not able to examine the Agreement exhaustively during the proceedings of the Committee; and in fact both the Majority Report as well as the separate note that was submitted by him would disclose the fact that the import side of the Agreement has not been examined. One would consider in a Trade Agreement that on the import side we give all that this country has to give and receive all that this country can receive on the export side. If Honourable Members come and say seriously that they have not examined that part of the Agreement which only would constitute the obligations

payable by this country, I would consider a great mistake has been made in stating that they have intensively examined the Agreement. There are also other points that he raised. He said that for want of sufficient time they wanted this Agreement to have a three years' trial. I said at the earliest part of this debate that this was a Trade Agreement, not a fancy dress ball. We cannot get out of an Agreement at our will and pleasure. After three years it is impossible to restore the very conditions under which we are now existing, because trade would be dislocated, finances will be upset, new interests will be created and it is absurd to say that we will have the same conditions three years hence as what we are having today. Then he made reference to Article 14 of the Agreement and if you will permit me, Sir, I will briefly refer to that Article a little later. But he also said that we should take care to see that the consumer and the taxpayer are not hit. So far as the consumer is concerned, he made reference to paragraph 15. Sir, in paragraph 15, you will be pleased to see that my Honourable friend, along with the other Members of the Majority, says this:

"We regard it as impossible to predict generally upon whom the cost of preference will fall. Experience has shown that in many cases the whole of the cost falls upon the producer. . . ."

My friend referred to paragraph 16 also of his Report. Paragraph 16 does not contain anything about the burden on the consumer

Sir Hari Singh Gour: I referred to paragraphs 14 and 16.

Mr. B. Sitaramaraju: I will read paragraph 14 also if you wish. This is what is stated in paragraph 14 here:

"On a careful consideration of the import schedule, we find that articles of the same kind as certain of those included in the preferential list are also produced by Indian industries which, though not protected by an Act of the Legislature, have been started or developed behind the shelter of the revenue tariff."

This paragraph 14 has no reference at all to the burden on the consumer. It deals with the protective industries. As I said a few minutes ago, I shall deal with that part of the subject when I deal with Article 14. So far as the burden on the consumer is concerned, there is nothing in the Majority Report to show that the burden on the consumer has been safeguarded. On the other hand, there is a clear admission in paragraph 15 that they do not know exactly on whom the burden of the preference will fall. On the other hand, there is another paragraph in the Majority Report where they state that this is a matter which should be left to the Select Committee. This is what they say in paragraph 15:

".....if preference is given by raising the duty, the initial tendency may be towards a raising of the price level, and this aspect of the question is one which will doubtless receive full consideration at the hands of the Select Committee on the Tariff Bill."

Then, as regards the question of the burden on the taxpayer, they rely upon a statement made by the Honourable the Finance Member that the duties will be so arranged as not to increase the burden on the taxpayer. This is here:

"At the same time we have been assured—and it is a point to which we attach considerable importance—that the tariff changes proposed have not been so designed as to increase the revenue from customs as a whole."

The meaning of this passage is only this, that the Government of India do not want any more customs revenue than they are getting now.

[Mr. B. Sitaramaraju.]

And the third point which my friend made about Article 14 is that great advantage that would accrue to our industries. I would like to invite the attention of the House, particularly to the terms under which Article 14 of the Agreement has been drafted:

"This Agreement between His Majesty's Government in the United Kingdom and the Government of India shall continue in force until a date six months after notice of denunciation has been given by either party."

Provided—(the proviso is very important)—that in the event of circumstances arising which, in the opinion of either party, necessitate a change in the rates of duty or margins of preference settled by the agreement on any particular description of goods that party shall notify and consult with the other party with a view to adjustments being agreed upon. If no agreement is reached within six months of the date of such notice it shall then be open to the original party to give to the other party six months' notice of his intention to carry into effect the change desired in the rate of duty or margin of preference on goods of the description named in the original notice and to bring the revised rate or rates into operation at the expiration of this period."

Now, I would like to ask how under the terms of this Article that interpretation, namely, products of industries and new industries are within its scope, is sought to be put. The Honourable gentleman who made the statement and also the Honourable gentleman who made the statement in the Majority Report have laid stress on paragraph 39 of the Delegation Report where the scope of this Article 14 has been given. But, I submit, Sir, when we come to consider an Article on its merits, when we consider the actual wording and the possible interpretation that any reasonable man can put on it, change of rates of duty and margin of preference settled by the Agreement is only contemplated. Products of industries as interpreted in paragraph 39 of the Delegation Report are not covered. The Majority Report goes further and states that under Article 14 they can bring in new industries.

A point has been made by our Delegation as well as in the Majority Report that our primary concern is that of the raw produce in this country and our chief interest ought to be centred on our agricultural interests. I daresay that agricultural interests are very important, but industrial interests are as much important as agricultural interests. I will read from a Government publication the following:

"India holds undisputed rank among the great industrial countries of the world, and the memorandum sent from the India Office to the Secretary General of the League of Nations in 1921 stating India's claim to be regarded as one of the 8 States, e.g., chief industrial importance in the world stands the grounds on which the claim is based.

She possesses important and flourishing jute, cotton, iron, steel mills and foundries of all sorts, dockyards, paper mills, match factories, and so on.

1921 census showed 16 million persons were engaged in industrial pursuits in India.

In 1927 manufactured articles exported from India reached 853 millions of rupees (64 million sterling). She has a virtual monopoly for some of her productions."

That is a statement taken from one of our Government publications.

An Honourable Member: It suited their purpose then.

Mr. B. Sitaramaraju: As my friend, Mr. Sadiq Hasan, has remarked, India can always be an economic unit in itself. It is both an industrial as well as an agricultural country, and if industries do not flourish as they ought to in this country, it is not due to any fault of ours, but is due to other causes. However, so far as the import side of this Agreement

is concerned, and the consequence of preferences in it, the Majority have not taken the care required for that purpose, and throughout the proceedings we have been hurried and hurried, and our admission that we have not been able to examine the question fully and exhaustively shows that we have not made a proper examination of the Agreement itself.

Sir, the Majority Report has dealt with the export side, and just now my friend, Mr. Burt, has also placed some emphasis on that aspect of it. I would like to make only a brief reference to it. So far as the exports are concerned, preferences on commodities like magnesium chloride, cotton, yarn, etc., the Majority themselves admit that the preference is not of much value. As regards oils and oil-seeds, my friend, the Raja Bahadur, has already dealt with it, but I would like to add to his remarks one little passage from the report of the President of the Oil Seeds Association, Madras. He states as follows:

"Much has been said about the benefit to the oil seeds business by the proposed Agreements, especially groundnut business. As one, knowing the details of the trade in all its aspects, and conversant with it for over quarter of a century, I would at once state that any Imperial Conference will spell disaster to the oil seeds trade and the producer. Britain, far from being helpful to us, has always been niggardly in the treatment of this article. It is only when the competition of Germany and France comes in, we really get any good prices, and of late there has grown up in England a system of Buying Combines which practically eliminates all competition and commands the market for this article at their sweet will and pleasure. In fact, Mr. Lindsay, the late Trade Commissioner, has drawn attention, in one of his public reports, to the danger to which our export articles are subjected to in Britain by means of these combines; and it is, therefore, no good depending on British preferences, so called, to develop our trade in this article. After all, a very small percentage of the total exports goes to England, and we have to find markets elsewhere if we really want to develop our business."

Sir, we have dealt with vegetable oils in our Minority Report, and I would like to draw the attention of the House to schedule B which we attached to our Report. We stated how unimportant the market of the United Kingdom was so far as these oils were concerned.

If Honourable Members will turn to Table B of the Minority Report, column 2, they will find that so far as sesamum oil is concerned, England takes nothing, and so far as groundnut oil is concerned, in 1920-21 she took 26,000 gallons as against 118,000 gallons taken by all other countries, and in all the other years from 1921 to 1931 there has been no intake by the United Kingdom at all. Take linseed oil. There the United Kingdom has taken very little, while other countries took a lot. The same is the case with rapeseed oil. These are figures supplied to us by the Government, there can be no inaccuracy. These figures will show that so far as the United Kingdom is concerned, our trade is very small indeed. In the Majority Report, on page 4, they have given some figures in value. I want to draw the attention of Honourable Members to column 2 of the table therein. The column says: "Total value of trade held by India in the United Kingdom plus the potential additional market in that country". It says, "plus the potential additional market". (Laughter.) So Honourable Members must bear in mind that these are not actual figures. While they have given the actual figures of the total value of Indian exports to all countries including the United Kingdom, so far as the figures regarding the United Kingdom alone are concerned, they gave not actual figures, but actual figures plus the potential additional market in that country. For a much smaller offence than that, others have been called dishonest. My Honourable friend,

[Mr. B. Sitaramaraju.]

Mr. Burt, has remarked about some inaccuracies in our statements about castor seed in our report. I may state that our statement was based on those figures and notes supplied to us by the Government. I may point out in this connection—I do not mean any offence at all—regarding figures of 1928-29, I find under castor seed that in 1928-29 we have a production of 118 and exported 121. (An Honourable Member: "Export is more than production!") Yes, so far as castor seed is concerned, probably it takes potentialities into consideration—potentialities to multiply itself in our warehouses.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member will please conclude in five minutes more.

Mr. B. Sitaramaraju: I would like to mention one fact. Much has been said about the interests that are served under this Agreement,—the interests of the agriculturists. We have stated that so far as expansion is concerned, it is not a question of mathematics. It is not a question of even how much land is available for us. It is primarily a question of the capital that can be brought to bear upon the agricultural development of the country, and it is not every kind of land either that is valuable for that purpose. Further we have to take several other factors into consideration when we speak of agricultural expansion. As we have stated, it will be long before any appreciable results can be achieved in this direction. Remarks have been made about wheat and rice. So far as rice is concerned, you will find that Burma sends about 52,000 tons and we export only about 4,600 tons. It was remarked by comparison with a particular year that the intake in the United Kingdom was found to be increasing. Whatever may be the increase in a particular year over a previous year, if we examine the figures for the last ten years the intake of rice in that country has fallen considerably. We find that the exports to U. K. from all countries have fallen from three millions to two millions cwts. We have quoted the Imperial Economic Committee's finding in our Report that the Burmese rice is not of that translucent character which would command a good market in the European countries. If I had time I would have developed that point, because there seems to be some misapprehension as regards the interpretation of the remarks of that committee. The interpretation which we sought to put on the value of this trade was put on the strength of the Statistical Abstract of the United Kingdom as well as on the findings of the Imperial Economic Committee's report. From the figures that we have studied, from the figures which have been made available to us, and the remarks that have been made in the Imperial Economic Committee's Report, we came to the inevitable conclusion that so far as Burma rice was concerned, it was not of such a quality as would have commanded a great market in European countries, and when we take the Indian export, we find that the Indian export of rice is of such a small quantity. The export to the United Kingdom both of Indian and Burmese rice, both taken together, would come only to five per cent. of our total exports of rice. No doubt, it can be said that five per cent. may mean so many lakhs of rupees and to those of us who have been thinking in terms of thousands, "lakh" certainly is a very big sum. We must consider that it is only five per cent. of that trade in rice and that the other 95 per cent. must be worth very

much more proportionately high. Regarding wheat and similar other commodities, preference is not of much value. Under these circumstances I think that it is not fair that the country should be asked to take on this Agreement for a period of three years as an experimental measure. With these few words, I oppose the amendment.

Dr. Ziauddin Ahmad (United Provinces Southern Divisions: Muhammadan Rural): Sir, I can understand and appreciate the position of those who oppose this Agreement on political grounds. They are opposed to any Agreement, whatever its form may be. That is a clear issue, but when arguments are brought forward on economic grounds, then I should like to make a few observations on the subject.

I like to examine the effect of this Agreement on three important points, that is the effect on the agricultural products, the effect on the industry and especially the cottage industry and its effect on the consumers, which is the same thing as the price level of the article. I shall take these in turn. Before I examine the effect on agriculture, I like to examine two certain assumptions which are very often made in arguing the question. The first assumption is that the capacity of the production of India is limited. Now, that is a point which I do not like to subscribe to and any one who has got practical experience of agriculture will at once refute it. In 1929-30, we find that 294.7 million acres were under cultivation, and 172.9 million acres of cultivable land, that is, about 60 per cent. were not under cultivation. I just refer to my Supplementary Note where I gave the figures of cultivable land for each Province and I take them as read, because I do not want to waste the time with these figures. If a profitable market could be found, it is quite possible for India to increase the agricultural products immediately by ten per cent., because out of the 60 per cent. agricultural land I think we can begin to cultivate about 1/6th of that. The second assumption which is very often made in arguing the whole case is, that the United Kingdom cannot retaliate, but foreign countries will at once retaliate. Now, the United Kingdom is not in a position to retaliate on the ground that she cannot go on without the raw products of India which are necessary for her manufacture, but foreign countries who require the same materials for the same purpose will be able to retaliate. This is a proposition which is not intelligible to me. Either both the United Kingdom and the foreign countries can retaliate or none of them can do so. To say that one of them can retaliate, while the other cannot, is inconsistent. If foreign countries started retaliation, then the first country of the British Empire which will begin to suffer and suffer most from this retaliation will be the United Kingdom, because she has much greater stake. Our volume of trade with the foreign countries is 384 millions and the volume of trade of the United Kingdom with the same countries is 1,688 crores, 4½ times the volume of trade of India. Therefore, if the foreign countries started the policy of retaliation with any success, then the first country which will demand to go outside this Agreement will be the United Kingdom herself and she will be the first party who will demand that this thing may be got rid of. I admit that the United Kingdom has taken a leap in the dark. I have clearly said so in my Supplementary Note, but we believe that this Agreement would lead to the expansion of the volume of trade and it is with this belief that the whole Agreement is made. Time alone can show whether this assumption is or is not correct, because there are so many factors in this question which we cannot foresee at present. I definitely maintain

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that this Agreement would lead to the expansion of our export trade. By this Agreement our export can certainly not diminish and it may rise. To what extent, it is exceedingly difficult to say.

Now, everybody has admitted that this Agreement would lead to the expansion of our agricultural trade as far as the United Kingdom is concerned. When they talk of the diversion of trade, it really means that our trade which was going to foreign countries will now go to the United Kingdom. It means that trade with the United Kingdom will increase. I have only to show that the trade with foreign countries cannot diminish. My reason is this. We know very well that the value of sterling was 4.86 dollars. Now, it has been reduced to 3.16 dollars. It really means that in the foreign countries the value of our rupee, which is linked with sterling, stands at ten annas five pies, that these foreign countries for ten annas five pies can purchase an article equivalent for which England pays one rupee. If the United Kingdom has to pay one rupee for a certain article for which the foreign countries in their own coin pay ten annas five pies or, in other words, if they are getting the same article for two-thirds of the price, then they will certainly come to us and buy cheaper. Sentiment has no place in trade. On account of the fact that this exchange has reduced the value of rupee to two-thirds, the foreign countries are bound to buy, simply because they will obtain things much cheaper. Therefore, if the trade with foreign countries will not diminish, the trade with the United Kingdom is likely to increase. The total result will be that by this Agreement our export trade can never diminish, and it is bound to increase. By how much, it is very difficult to foresee. In the Supplementary Note which I submitted, I attempted to give the figures of capturable trade for each commodity and the amount which we are likely to capture. The capturable trade is over 100 crores and I guess India's share to be seven crores. I am asked whether I am certain. If I could foretell with mathematical precision, I would have been a millionaire and would not have been here. I say, that our foreign trade with United Kingdom is bound to increase. Our trade with foreign countries cannot diminish. Therefore, the effect of this Agreement will be favourable to our export trade.

Now, I come to the second question, its effect on industries and, specially cottage industries. This, I admit, is a very difficult question. We could not examine it, because there are so many different issues in it. It was a practically hopeless task to examine it at this stage. It requires a Tariff Board sitting for years and years to find out the effect on each and every industry if this preference were given. It is also difficult to adjust the manner in which preferences may be given whether tariff rate should be plus or minus or both plus and minus. I give an illustration of one particular industry which came to my notice, and this is the glass industry. Persons, who were interested in the glass industry, said very clearly that they required certain chemicals for their glass manufacture. If the preference is given to the United Kingdom by diminishing the duty on chemicals, so that they can get the chemicals cheap, and the preference on finished article is given by increasing the duty by ten per cent. on foreign glass, they will certainly be benefited as their competition lies with Japanese glass. Therefore, the benefit of the cottage industries depends not so much upon the Agreement, but how this Agreement is given effect to, and that is a thing which we cannot at present determine,

but we have got to see how the whole thing is materialised. This was the reason why we came to the conclusion that unless we sat down like a Tariff Board and examined the matter for years and years, we could not decide the issue. The only other alternative which we adopted was to sit as a Committee year after year and consider the results thoroughly after three years, either on the report of the Tariff Board or the Department and visualise in our minds what those results would be.

Now, coming to the third point about the price level, that is a very difficult point. My Honourable friend, Shaikh Sadiq Hasan, in his speech thought that the price level would be raised because things would be dearer. Later on, in his speech, while arguing the effect of the Agreement on industries, he said that our industries after this Agreement might not be able to compete with foreign articles and that price level would diminish. Thus, in his own statement he took up both the positions,—on one side that the Agreement will affect home industries, and this means that the price level would be lowered, then, at the same time, he took up the position that articles would be more costly to the consumer. If the price level is lowered, it would benefit the consumer, if it is raised, it would benefit the industries. The question whether prices will go up or go down is a sporting question. Let me illustrate it by referring to a discussion which was held in an assembly whose name I do not like to divulge under the Official Secrets Act. The debate was on this question, suppose we have a pulley and a rope is passing over it. A monkey is on one side of the rope and he is balanced by weight on the other side of the rope. The monkey now began to climb up the rope. Then the question was, will the weight go up or go down? The house was hopelessly divided; and, after a heated discussion, the President called for division. The votes were recorded and they found equal number of votes on either side. The President was asked to give his casting vote. The President of that assembly, who was a great expert in the theory of statistics, said that since the votes on either were equal, therefore, the weight would neither go up nor go down.

Mr. K. Ahmed: What about his casting vote?

Dr. Ziauddin Ahmad: The President said that it would neither go up nor go down. I am sure that even in the case of the Members of the Treasury Benches, who always vote as a team on one side, if they are divided on this particular issue whether the weight will go up or go down, a half of them will be found in the Lobby for Ayes, and the other half in the Lobby for Noes.

Sir Abdur Rahim (Calcutta and Suburbs: Muhammadan Urban): Let them do that.

Dr. Ziauddin Ahmad: The discussion continued and the debate was held a second time. The recorded votes the second time were also equal. The new President was a business-like man of common sense. He said, let us have a pulley and rope and bring the monkey and weight and actually see whether the weight would go up or go down, and he tried the experiment and actually found that the weight neither went up nor it went down, but was stationary. So he gave his ruling. The same is the case with our price level. If you decide the matter by the theory of statistics, the price index of Import will go up, and it would go down under

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the effect of this Agreement. Sir, this is an exceedingly difficult issue and I challenge any one to predict whether the price-level will go up or go down. In my opinion, the Agreement will have practically no effect on the price-level,—whether the preference we are going to give will fall on the original producer or on the consumer: it depends on the price-level and it is not going to be affected by this method. I just, by the way, put a question whether you want the prices to go up or go down. Here opinions will be hopelessly divided. The Honourable the Finance Member, in his admirable note, which is printed as an Appendix to the Report, laid a very great stress on the desirability of raising the price-level, but he will, I think, find that this Agreement cannot help him either one way or the other. He will have to find out some other methods for raising the price-level. I discussed it in connection with the price-level of wheat. There is one thing, Sir, to which I would like to draw attention. I calculate that the value of the preferences given to us under the Ottawa Agreement are much more than the preferences which we give to the United Kingdom. I calculated the value of preference of each commodity and I found that in total we give preferences to the extent of 2.35 crores and we receive preferences equalling 7.4 crores, that is more than three times. Of course figures may be said to prove nothing, but if they do not prove anything, then what else will prove it? The other point to which I would like to draw attention is that we have already given preferences on iron and steel and also on our piece-goods to the extent of 2.16 crores. Now we swallowed this pill of 2.16 crores without any serious protest, and this preference was gratis without any receipt. Now, under this Agreement we are giving 2.35 crores in exchange for 7.5 crores. Then we say that our Delegates have sold us in an unreasonable attitude. Even if we take the two preferences together which come to about 4.9 crores, we are not losers. I myself do not lay great stress upon this balance-sheet as conclusive evidence, but it is one way of looking into the question, this balance of preference is entirely in favour of India. I only say, if other arguments fail, if no definite assertions can be made now one way or the other, then the only thing which is left to us and on which we can base our judgment is the balance of preference which I have just quoted. Sir, in the absence of conclusive economic reasoning, I rely on the value of preferences only. By this Agreement we give preference to the extent of 2.35 crores and we are receiving preferences up to 7.4 crores.

Sir, I have carefully read every word of what has been placed before me and I admit that everything written on the subject is against the Agreement. I am convinced that this Agreement is certainly favourable to the export of agricultural products. It will have no effect, I think, on the price-level, and the Honourable the Finance Member will have to devise other methods by which he may raise the price-level. And, as regards its effect on the home industries, we shall have to watch the situation year after year and, then and then only, we can say what permanent effect it will have. With these words, Sir, I support the amendment.

Mr. G. Morgan (Bengal: European): Mr. President, as I have already spoken on the original Resolution, my time is very limited and I shall confine myself to the Report and to remarks made in this House. I could not follow the arguments of my Honourable friend on my left, who is not present at the moment; he made one remark which I should like to

point out is not quite correct. He said that a threat had been held over the Delegation at the point of the bayonet—I think that was his remark—that if you don't do this, we shall do that, which will hurt you. Now, as a matter of fact, the 10 per cent. duty under the Import Duties Act was imposed in March last, and those duties have been in existence since that date. The position merely was that as far as the Dominions and India were concerned, the duties were in abeyance and they were guaranteed to be in abeyance till the 15th November or, as in our case now, till the ratification of the Agreement. Then, my Honourable friend, Shaikh Sadiq Hasan, spoke about the past history. I do not pretend to know what large industrial concerns there were in the Moghul times, or that they were there at all, but now were dead and gone. Why they did go? He did not answer that point. (Voices: "They were destroyed by the British." "The East India Company." "Read your own history.") Sir, I do not know that India can claim to have had more than what we now call more or less cottage industries at that time.

Then, Sir, coming to the Committee's Report, it seems to me that my Honourable friends on the right were rather letting political prejudices and feelings against Great Britain run away with their views on this important Agreement.

Mr. S. C. Mitra: What are these feelings for? Why are they there?

Mr. G. Morgan: I had the honour of being adviser to our representative on the Select Committee. I heard all the arguments for and against, and I can assure this House that they were gone into in very great detail. Nothing was accepted as an established fact at all, and everything was threshed out as far as it was possible to do and that too in very great detail, and the figures that were supplied to the Select Committee left me in no doubt at all. My Honourable friend, who has just sat down, has proved it, in a much greater detail than I can do, that India stands to gain by this Agreement. There is one point which most of the Honourable Members who have spoken have laid stress on and that there cannot be any expansion of trade but only a diversion. Well, Sir, there is an important point which they have ignored, and that is the loss in trade. I claim to speak for traders and I am quite certain in my own mind that if this Agreement is not ratified, there will be a considerable loss in trade in many items and also a set-back in many others. I would only mention articles such as tea, coffee, wheat and jute manufactures. We all know what would happen if the preference was taken away so far as tea is concerned. Then I would refer to the Supplementary Agreement with regard to iron and steel. The collieries which are looking forward to an increased demand under that Agreement, would not get that increased demand which is very important from their point of view. My Honourable friend, Mr. Sen, would support me in this, if not in others. The collieries are most important and they should be able to sell more coal, and the railways, which are at present in a semi-parlous state, would carry more coal. With regard to jute, I think Members are labouring under a great delusion. The jute manufacturing trade is not in what I would call a very healthy condition. It is working short time and a large percentage of looms are sealed up. Now, Honourable Members may say: "Oh, that is nothing: it is only six per cent. which is exported to the United Kingdom: what is this six per cent.? We can easily find a market for it elsewhere". That shows they know nothing about the

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trade at all. It is with considerable difficulty that we can sell our production at present anywhere, and the market is sagging again owing to many circumstances. We decidedly want this preference for jute manufactures. At the present moment the Jute Mills Association and those who are not inside the Association have got an agreement and they are now discussing as to carrying on that agreement for another year, after next time. Now, would they do that if they felt there was no difficulty in getting rid of the production which they have at present and being able to sell it without difficulty? I know they can't. We want more purchasers, and if you cut out that United Kingdom trade, you lose business worth some £1,500,000, to say the least of it.

Then, Sir, there are two points in the Committee's Report which ought to be commended to this Honourable House. We have the six months notice under the original Agreement, and we have now established the right of the Assembly to criticise and to decide, at the end of three years, Government giving annual reports as to the course of trade in the articles which come under this Agreement. These returns are to be scrutinised by a Committee, consisting of not more than 15 members, and it will be able to report to this House in detail whether the whole of the Agreement is good or bad, or whether it is only good or bad in certain articles. I consider that a great achievement for this House. With regard to discriminating protection, my Honourable friend, the Leader of the Nationalist Party, pointed out that this is answered in paragraph 13 of the Majority Report. I need say no more, because if Honourable Members will read paragraph 13, they will see that it is perfectly clear, what the Honourable the Leader of the Nationalist Party has said is correct. With regard to the consumer.—It has already been pointed out in paragraph 14 of the Majority Report that so far as one can possibly judge, there will be no burden on the consumer.—The only people who can decide are the merchants who will have to work this Agreement by buying and selling, and it depends on whether there is greater competition to sell than there is to buy. Whether Members of this House are merchants or not, I do not know, but I can tell them that we all try to sell, and the greatest difficulty now is to get buyers. At the present moment the competition to get buyers tends towards a reduction of price, whatever the position of tariffs or preferences.

Now, with regard to the Minority Report, there are just a few items to which I would like to draw attention. I have already mentioned the policy of discriminating protection and the Minority Report says that this Agreement will come in conflict with that policy. I deny that absolutely. But there is one important thing which my Honourable friend, Sir Abdur Rahim, and the other two Members have said, viz.:

"We would repudiate any suggestion that the scheme should not be accepted even if it is advantageous to India because at the same time it is advantageous to Britain."

I hope that is the real meaning of the Minority Report and I welcome the fact that the three signatories to that Report take up that position and I hope will not be led astray into side issues. From what we know and what we have studied, there is not the slightest doubt that the Agreement will be advantageous to India, and I claim that it is more advantageous to India than it is to England. I should like to challenge anybody who denies that. I do not intend to go back so far as Lord Curzon in 1906 and the Fiscal Commission in 1922, because I am one of those

people who now feel that the world has changed so much since 1929 that we could paste a piece of blank paper over everything that has been said and done years before. We have now got to start afresh. The United Kingdom has taken up an entirely different attitude, and we are anxious to see that our trade does not suffer because of that attitude. We cannot change the attitude of the United Kingdom, but we are not going to allow that attitude to disturb our trade. We will be satisfied if we can get our trade secured in the most stable market and our best customer, viz., the United Kingdom. If we can get that trade secured by accepting this preference, I shall be only too thankful, speaking as a merchant. In this Minority Report there is a remark under tobacco which says:

"If preference were withdrawn, the loss to India is estimated to be about 1 per cent. of her total production."

But why should we lose anything? That is my point. We cannot suddenly say that if we lose trade with the United Kingdom, we will sell to Timbuctoo! Merchants cannot do that sort of thing. You may put it down on paper on the floor of this House that if I cannot sell to A, I will make B take it. Merchants cannot do it. We are the people who will have the working of the trade, and make it a success, or a failure.

There is one other point, Sir, if you will allow me a minute.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member has two minutes more.

Mr. G. Morgan: I will finish easily in that time. It is with regard to aluminium. Sir, one of my friends on my right said that he had read a lot of papers about the aluminium trade and that it was evidently going to be absolutely ruined. He does not know the aluminium trade, that is what I gather from his remarks. I may tell you, Sir, and, through you, explain to the House, that a European cartel exists, British, Swiss, French and Germans being interested parties. There is a clause in the Agreement stipulating that all large manufacturing companies of utensils must pay the same price for aluminium circles and sheets, that the price is a fixed price, with quotas to the foreign countries. That is not how the manufacturing trade in this country puts it, when arguing against the Agreement. An increase in duty on the foreign metal will be paid by Continental producers, because they cannot get away from their fixed selling price. They cannot get any better price for their articles, because that is all fixed under the Agreement. So aluminium utensil manufacturers in this country stand to lose not one pice by this preference, they really stand to gain.

Sir, I support the Resolution.

Mr. H. P. Mody (Bombay Millowners' Association: Indian Commerce): Sir, when I spoke on the Resolution moved by the Honourable the Commerce Member, I gave expression to various doubts which I then entertained with regard to the value of the Ottawa Agreement. I asked for the appointment of a Committee to properly study that document in view of the fact that the time and materials available to Members of the House were insufficient for that purpose; and I then gave the assurance that if I was convinced that the Agreement was to the benefit of India,

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I would be its strongest supporter. I have risen, Sir, in my place today in fulfilment of that pledge. The examination that I have made of this Agreement, with the help of my colleagues and of the enormous mass of material placed at our disposal, has convinced me that India cannot stand out of the arrangement made at Ottawa without a vital injury to her interests. I recognise the weight of industrial and commercial opinion against me in this matter. I recognise also how completely I have fallen from grace in the last three weeks. But I am prepared to stand up on any platform and face any number of economists and businessmen in support of my point of view.

Sir, a great many critics have tried their hand at this Agreement,—a great many critics, wise and otherwise. The resultant confusion has made it impossible for the general features of this Agreement to be recognised, and has absolutely obscured the larger economic background against which this Agreement has got to be placed if it is to be properly appraised. Our report has tried to get away from details. It has tried to state as fairly and as briefly as possible what this Agreement really means to India; and I hope that those who criticise the report will at least do the framers of it the justice of conceding that a very fair estimate has been made of the precise value of the Agreement.

What is the general picture which the Report presents? First of all, Sir, taking the export side of the question, we have tried to show in what commodities the preferences that we have obtained are valuable, in what commodities they are of no value and in what other commodities they may be of value in the future if certain developments take place. There are, for instance, commodities in which there is little competition from Empire countries and where the preference would be of undoubted value, such as rice, paraffin wax and ground-nut oil. There are others in which preference has been obtained actually at the expense of the United Kingdom producer, such as jute manufactures and pig-iron. And there are other commodities in which the withholding of preference would entail very serious injury to Indian commerce and industry, such as tea, coffee and tobacco. I shall not attempt to deal with any figures; the time for that is past. Our Report and the Delegation's Report are there. I will only place before the House the general lineaments of this Agreement as I now see it. Now, it has not been disputed by any critic, whether in this House or in the Committee which sat to examine the Report, that in certain commodities at any rate the preferences would be undoubtedly valuable. But the argument has been advanced that after all the increase which you may obtain in the trade with the United Kingdom may be at the expense of your trade with foreign countries. To a certain extent I grant that it may be true; but I think that to an extent equally large, it is also true that the volume of trade which we would obtain in the United Kingdom market would be a net increase of our trade, and would not mean merely a diversion of it from foreign countries. In this category I will place the various vegetable oils for which there is an enormous market in the United Kingdom, where the increase of trade would not be at the expense of the trade with foreign countries.

This being admitted, namely, that we obtain some valuable preferences which are of use to us, the argument is used that after all India stands in an impregnable position, that she is the world's principal supplier of food-stuffs and raw materials, that she holds a monopoly of various

articles and that, therefore, whatever she did or did not do, her position could not be threatened. I say, Sir, as my friend, Mr. Morgan, just pointed out, that when we are thinking like this we are thinking in the past. We are dealing now with conditions which have enormously altered in the last three years, and it is these altered circumstances that we have to take into consideration when framing an estimate of the situation. What is the position today? The warehouses and markets of the world are glutted with enormous stocks of practically every commodity. Even in that commodity of which we hold a monopoly, namely, jute, there are enormous stocks. At the present moment the world is holding something like 50 per cent. more of stocks in many of the principal commodities like wheat, cotton, rubber, coffee, than was the case only a few years ago. It is a matter of equal importance to recognise that the situation with regard to our general export trade has changed very materially. The foreign markets which we used to command are no longer at our disposal through a variety of causes. Principal among these causes is the tariff walls which have been raised in the last two or three years. The Report has given a statement of the various duties which foreign countries have imposed on a number of articles.

Mr. B. Sitaramaraju: You do not read the Minority Report which also deals with that.

Mr. H. P. Mody: When I refer to the Report, it means the Majority Report. I recognise that the Minority have not omitted that aspect of the question. I have great respect for the Minority's Report, but I am developing my argument on the Majority and not on the Minority Report.

I should like to quote from the World Economic Survey of 1931-32, a League of Nations publication. It says:

"More direct reduction of imports was achieved in 1931 by the introduction of quotas (Czechoslovakia, France, Italy, Latvia, Netherlands and Turkey); by prohibitions (Czechoslovakia, Denmark, Estonia, Poland, Turkey and Colombia); by State monopolies (Estonia and Sweden); by new import duties (Great Britain); by increased duties (Austria, Argentina, Australia, Belgium, Brazil, Bulgaria, Denmark, France, India, Italy, Latvia, Lithuania, Netherlands, Poland, the Union of South Africa and Switzerland); and by Customs surtaxes for depreciated exchange (Canada and France)."

What I am putting forward is supplementary to what the Report has contended, namely, that the situation in foreign countries has changed to a considerable extent. Another factor of equal importance to our trade is the fluctuating conditions of world currencies,—the extremely unstable condition of practically every currency in the world. We are linked to sterling: and so far as our trade with Great Britain is concerned, the effect of exchange does not arise: but as regards foreign countries, our export trade must necessarily be affected by the uncertainty of currency fluctuations.

Then there is another consideration which ought to make us recognise that our position is no longer impregnable in foreign countries, and that is the enormous reduction which has taken place in the price levels. From October, 1929, which was the crucial date, to March, 1931, the price level of imported articles has only fallen by 14 per cent., while that of exported articles has fallen by as much as 39 per cent. What is the inference to be drawn from this? The inference is that we pay more in the shape of exports for what we import than we did prior to October, 1929; and it is as a result of this that you notice particularly in four

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countries, namely, France, Italy, Japan and the United States of America, that our trade has been diminishing to a considerable extent in the three or four years. That brings me to the consideration that Great Britain today is the largest and also our most stable market. I invite the attention of Honourable Members to what appears at page of the Review of the Trade of India: there they will see how the character of our export has changed, how Great Britain maintains her position with regard to our exports, while other foreign countries are taking less and less every year. I myself have compiled the figures of the last years, and my study of the question tells me that measured in value our export trade with foreign countries has dwindled to a very much greater extent than our export trade with Great Britain. Therefore, are up against this, that we are concerned with a market which is largest and most stable market, and which, if we refuse to deal with is bound, in view of the Ottawa arrangements, to do away with preferences, and put us in the same position as foreign countries.

Another consideration which my Honourable friends who oppose the Agreement have lost sight of is that there has been a radical change in policy in the United Kingdom in the last few years. I shall not speak with the Key Industries Protection Duties, the Safeguarding Duties, the various other breaches in the free trade policy of Great Britain which lasted well nigh over 70 years. I would invite the attention of the House to a resolution passed by the bankers of Great Britain in July, 1934, which was a prelude to the further and final breach in the free trade citadel which took place in March last. That resolution stated that time had arrived when Great Britain must impose on all imports from foreign countries higher duties than on imports from Empire countries. I finally come to the Import Duties Act which was the logical sequel to this growing change of policy on the part of the financiers, industrial and statesmen of Great Britain. Thus it is that when we are asked to ratify an Agreement with our largest and most stable market, and which ensures a continuance and also increase of our trade with that market, the answer after examination can be only one, and that is that I am prepared to give up the preferences which are being offered to us. If our position in the foreign markets was as secure as it was a few years ago, I would have said that we should be prepared to take the consequences. But that is not possible in view of the enormous changes which have taken place in financial and industrial policy.

The only question that arises is: are we acquiring these preferences at the cost of our vital interests? There there are only three points to be considered, our industries, the consumer and the taxpayer. I was very agreeably surprised this morning at finding so many champions of industrial interests in this House. (Laughter.) For years I have been conducting a long fight with the Government of India with regard to the industries which I specially represent, for years,—at least for such time as I have been here—I have strongly supported the case of such industries which have come to this House for relief. I did not find any enthusiastic champions of industry in those days. In view of what may happen in March with regard to the industry which I represent, it has given me great pleasure to listen to my friends and to see their touching sympathy for industrial interests. I shall know now that even if I have to deal with an obstructionist and unsympathetic Government, here is a

and influential section of the public which will stand behind the industry which I represent. (Laughter.) I would have been very glad if my friends had stopped short at that; but the implication is that now they are amongst the gods, that they are the champions of industry, and I who have always been fighting for protection to the textile industry have deserted the cause. Perhaps my Honourable friends do not know, apart from the consistent interest which I have taken in these matters and the way in which I have always fought for every industry that has claimed relief, that even today I am engaged in an argument with the Government of India with regard to the necessity of putting on the Statute-book some safeguarding legislation which would ensure to all the industries in the country their right place. It is, therefore, idle to tell me what my duties are in regard to the protection of industrial interests. The Report tells us exactly how we are going to deal with the problem. A great point has been made of the admission that we have not had enough time to examine the import schedule. If we had been less fair and if we had not said that, the Report would perhaps have been acclaimed as a much more convincing document; but because we were eminently fair and because we said exactly how we have viewed the opportunities of examination that have been given to us, my friends are making a point of it. What, however, is the real point? The point is only that during the committee stage we had not enough opportunity of examining the import schedule; we are now going into Select Committee and when we do so, then I assure my Honourable friends, if they need any assurance from me, that the case of every single industry, which may be affected by the adjustment of the preferences which are to be found in the schedule, will be very carefully considered, and so far as I am concerned, I shall not be a party to any Report unless, when I have made out a *prima facie* case, the case has been conceded and due protection given. While we have admitted that not enough time had been given for the examination of the import schedule, you must remember that this Report came out on the 18th October; supposing it was in the hands of the public in another week, there has been enough time and opportunity to every industry affected by it to come forward and say that its interests are threatened by the way in which the preferences are arranged in the schedule, as so many of them have done, and the case of each and every one of them, I repeat, will be very carefully examined.

Sir, very few words are required in respect of the position of the consumer and the taxpayer. So far as the consumer is

concerned, the same considerations will guide us, namely, that if we feel that the duty has been imposed to the full extent of ten per cent. preference against the foreigner and if we find that the foreigner holds the market, and that perhaps by raising the duty in that way the consumers' interests will be threatened and no advantage will accrue to Great Britain, we shall press for a reduction of the duty against Great Britain rather than for raising it against the foreigner. These are all questions which will have to be examined in the Select Committee, and it serves no purpose to fasten upon what we have said in our Report to the effect that we have not had enough opportunity of examining the Import Schedule.

Lastly comes the case of the taxpayer, and it can be dealt with, in a few words. We have the assurance from the right quarter, namely, the Honourable the Finance Member, that so far as the taxpayer is concerned, the Schedules have been so arranged that taxes will not be raised . . .

An Honourable Member: 40 crores he has already taken.

Mr. H. P. Mody: He may have taken 400 crores in the past. How is that relevant here?

Mr. S. C. Mitra: What does it matter?

Mr. H. P. Mody: My friend says, what does it matter? He has got a better fed look than I have (Laughter), and he talks of the taxpayer's interest. We have fought against taxes just as strongly as he has, and we are paying taxes just as he is, perhaps to a much larger extent than he imagines. I say that so long as we have the official statement that in the arrangement of the Schedule care has been taken to see that the revenues are not affected and that in consequence no necessity arises for increasing the taxes on any article, we must be prepared at the present moment at any rate, to accept that position. When we find that the position is altered, we shall know what to do.

There are just one or two points I want to deal with. We say in our Report that it is not possible to dogmatise on these questions, and that the only test is experience of the actual results over an adequate period of time. That should not be distorted. We have at the same time definitely said that, so far as we can examine this position today, we are convinced that the Agreement is definitely to the interests of India, but we recognise that economic conditions change, and, therefore, we say that it is not possible for us to lay down definitely what the advantage to India will be. All that we mean is that according to our present reckoning, the Agreement is distinctly of benefit to India.

Now, Sir, I come to the last of the points in our Report, and that is the safeguards we have provided for ensuring that not only the working of this arrangement will be carefully scrutinised, but that proper opportunity will be given to the public and this House to rectify any blunder that we may have inadvertently committed; for that we have provided two safeguards. First of all, there is to be an Annual Report, a document which will set out exactly how our export and import trade has fared under this arrangement, how agricultural commodities and industries are affected, what applications have been received from various interests, how they have been dealt with by the Government of India, and so on,—it will be a complete document which will tell the public how the matter stands with regard to India's participation in this Empire arrangement. And finally, Sir, we have secured for this House a most valuable privilege, a privilege which the Government Benches have conceded after some argument, and that is that, at the end of three years, if this House, on an examination of the whole situation, is in a position to say that the Agreement is not to the advantage of India, and says so in a Resolution, then the Government of India undertake to give effect to that Resolution, and to give the consequential notice. That, I regard, not only as a safeguard for the country, but as a valuable privilege for this House.

Sir, I have only one word to say. My own part in this business has been, I see, fiercely attacked in the last few days.

An Honourable Member: By whom?

Mr. H. P. Mody: By critics of every description. In spite of the fact that I made a strong speech raising doubts about the value of the arrangement, I decided later on that this arrangement is in the interests of India, and when I came to that conclusion I was not going to draw back, and because I had made a certain speech, to shut my eyes to facts, and to stand up again in my place and ignore all the considerations, economic and others, which have appealed to me and convinced me that standing out of this arrangement would hurt India's interests vitally. (Applause from all sides of the House.)

Mr. Uppi Sahab Bahadur (West Coast and Nilgiris: Muhammadan): Sir, I do not know much of economics. I cannot play with crores of rupees or millions of sovereigns, but I understand one thing. Just now the last speaker mentioned something about the safeguards, that after three years Government will come before this House with a Report about the working of this Agreement and then we can give expression to our feeling whether in favour or against the arrangement by means of a Resolution. I ask, Sir, can we get out of this Agreement after three years? Are we an independent body? Have we any power to force the hands of the Government to take action in the manner we desire if we find that this Agreement proves to be against us? Are the Government of India an independent body? They are under the Secretary of State. After three years, when millions of rupees have been drained away from this country on account of this Agreement, after diverting our trade from different parts of the world to the United Kingdom when the United States, Japan and Germany make other arrangements for their own supplies, we will be called upon to give our opinion. That will be the time when it will not be possible for us to bring back our commerce to the present position. Now, we have got markets in Japan, in Germany and in the United States, and, by this Agreement, as the Committee have told us, we shall be taking a leap in the dark. By this Agreement all these customers may go away, all our trade will be diverted, and we will have to depend for our trade on the United Kingdom alone. After three years if we find ourselves in a bad position, what will be our remedy to get back all those customers? None of the previous speakers has told us a remedy. We have no vessels to carry our cargo to Japan or Germany or the United States, and we have to depend entirely on those people to come back again to purchase our goods or on British vessels to carry our goods to them. I know it is a known fact that in trade people buy raw materials only from markets where they can sell their produce. If we fall out with Japan or Germany by this Agreement, then they may not buy our raw material. My only doubt is, in spite of the so-called safeguards, what we can do, if we find ourselves in such a bad position after three years, to come back to our present position? Sir, now a Bill also is going to be introduced into this House to enhance the tariff on foreign goods, and it is very likely to be passed by this House. Then what is the remedy to get back to our position? We will have to introduce a Bill to repeal that Act. Can we repeal it? That depends upon many things. Before introducing it, we have to get the previous sanction of the Governor General. If we could get the previous sanction of the Governor General, we have to pilot it through this House, and if we succeed in piloting it through this House, there is the other House. All these barriers we will have to cross, and, above all, this is an Agreement between two parties, that is the Government of Great Britain and a dependent country like India. Even if we do all these

[Mr. Uppi Sahab Bahadur.] ... things, we have to satisfy the Secretary of State for India. If he does not move in the matter, all our endeavours will be lost. This safeguard, to which my Honourable friend, Mr. Mody, has referred with satisfaction, appears to me to be only an eyewash. At the time of the ratio controversy, we were told that 18 pence ratio was going to benefit India very much and that a millennium was going to set in here. What is the result? I have heard these very people who voted for the 18 pence ratio repending now. The same, I think, will be the result if we agree to this Agreement, and we shall be jumping into a fathomless deep to get out of which there may not be any way.

Bhai Parma Nand (Ambala Division: Non-Muhammadian): I have gone through the reports both of the Majority and the Minority Committee. Though the arguments given by both parties are expressed in very forceful and strong language, they take us nowhere. On the whole I feel that they leave us simply in uncertainties. There is one common fact which I can detect in the reports, and that is, that the Agreement is a leap in the dark and might prove to us of no special advantage.

My point of view is entirely different. I do not consider that all these our rough calculations with regard to separate commodities are so very important just at present. So I want to look at this question from another stand-point. One main thing that we have to consider is whether India is going to gain or to lose by this Agreement. That means, in other words, whether by entering into this Agreement, we are going to have our trade and industries developed in this country or not. Taking the development of our industries and trade as our main-stand, I think, we should look at this question from a different angle.

We have seen, during the last 25 years, what an agitation has been going on about Swadeshi and boycott. I think both the Swadeshi and boycott are merely negative weapons. They do not give us any constructive plan. Let us see. We preach Swadeshi or boycott of foreign goods. In case we are unable to produce those articles and commodities in our country, that preaching of ours can go only to a limited extent and cannot take us any further. Let me take an illustration from politics. Take the present political situation. We find that there are three parties. There are revolutionaries who want to make the country free by terrorist methods. Then there is another very strong party in the country represented by the Congress school of thought, which has adopted civil disobedience and rely upon it as their instrument to gain independence. Both these methods represent, however, simply destructive kinds of work. My point is that by simply preaching civil disobedience or by acting on terrorist methods we cannot have freedom for the country. They can end in anarchy and nothing else. There is, then, the third party which believes in the process of constitutional evolution. This party owes its real existence to the introduction of the reforms, and Members of this Assembly, I take it, belong to this party, however much they might talk in favour of civil disobedience or any other method. By their very presence here, they believe in constitutional methods to attain their goal. Just as they believe in the constitutional development of the country as the one way for attaining their political end, they should understand that this Agreement would work for them in the matter of the economic development of the country.

The question before us now is, whether we want to have our industries developed on some practical line, or whether we want to press simply upon the negative methods of boycott and Swadeshi for the development of our industries. When I read economics in my younger days, we were given an impression that the British people were great exploiters, and their policy of free trade was due to the fact that they wanted to let India a free trading country so as to keep open the doors of India to foreign traders, because if they wanted to exploit, they could not stop other European countries from exploiting India. We were told that in the matter of industrial progress, India was just a child and the European countries had the position of trained wrestlers and that her industries could never be developed if they were not specially protected from foreign competition. The Great War changed the angle of vision of British statesmen with regard to India's constitutional future, and it is the effects, direct or indirect, of that War which have changed the economic policy of the British people. Sir, I welcome this policy of protection that has been adopted by the British Government, and, I say, if this Agreement is entered into, it would commit the Government of India to a policy of protection. If we translate the negative terms of Swadeshi and boycott into positive aspects, it would simply mean the adoption of a policy of protection. As soon as we adopt protection, we are preaching Swadeshi and boycott, in the most practical way. For a long time we preached the use of Indian made sugar, but however much you may preach about it, if there is no sugar in the country, you cannot have Swadeshim translated into practice. Only last September, by the favour of the Government of India and especially of Sir George Rainy, the Sugar Protection Bill was passed and we find now, during the last three months, more than 25 sugar mills have been set up all over the country. This policy of protection is very essential to the development of industries in an undeveloped country. There might be advantages or disadvantages occurring from this Agreement which we can only know after it has been in force for a year or two, but there is one thing quite clear, namely, that by entering into this Agreement, the Government of India and the people as a whole will commit themselves to a policy of protection. I admit, Sir, this policy of protection is introduced in a modified form, i.e., that of reciprocal protection between England and India, but, all the same, I welcome this policy and I have no doubt that it will be to the benefit of this country in the long run. Again, Sir, the Committee of Vigilance which is proposed to be appointed by this House is another great act which will tend to the creation of a sort of economic awakening in the country. Just as the announcement of the introduction of reforms with the promise of the grant of self-Government in 1917 created a new political vista, similarly, the adoption of this new policy will open new fields of economic progress and this Vigilance Committee, composed of Members of this House, will not only act as a watch and ward, but will see that our industries are not affected badly in any way. I think this is a great step. It may not be much in the eyes of those who are radical in their views in political matters. They are welcome to have their views. But just as there is a practical method by which we try to attain responsible self-Government, so, Sir, this is a practical way to develop our industries. We should understand once for all that without the co-operation of Government it is not possible to do much considering the conditions as they are at present. A policy of protection has been adopted by the Government and we should make the best use of that policy. At the

[Bhai Parma Nand.]

same time, this Assembly, through its Committee, is bound to see that the industries of the country are protected. There was a time when if Germany, France, or any other country benefited from their Indian trade at the cost of India, the Government did not take any notice of it. There is a change now. The Empire countries are to be taken as one and, if the Government are sincere in their profession, then this Agreement would be of a lasting benefit to India. And the creation by this Committee, of a feeling, that the Indian industries have to be safeguarded, will act as a great blessing.

Dr. F. X. DeSouza: (Nominated Non-Official): Sir, my Honourable friend, Raja Bahadur Krishnamachariar, who, I regret to see, is not in his place now, questioned my right to make any statement in the Majority Report of the Committee on behalf of agricultural interests, because he thought I was never associated with agriculture. I may correct him by saying that all my life I have been associated with agriculture vicariously perhaps till some years ago, but recently I have devoted myself so entirely to agriculture as to realise the truth of the vernacular proverb:

"Uttam kheti, madhyam vyapar, nikrisht chakri."

which simply means that agriculture is the best profession, trade comes next best and the worst is service, Government or otherwise. That shows in what esteem our forefathers held agriculture contrary to the manner in which their degenerate descendants of today regard it.

I have studied this Agreement with all the care of which I am capable from the point of view of the practical agriculturist and I have come to the conclusion that the advantages it secures to the agriculturist, who, after all, represent nearly 80 per cent. of the population of this country, are so great that it would be criminal folly to refuse to ratify this Agreement. Now, what are the advantages secured to the agriculturist? I do not propose to go into detail, but I will point out that the preferences which have been secured to the principal agricultural products of this country, to wheat, rice (whole, cleaned), to linseed, to vegetable oils of all kinds, castor oil, linseed oil, coconut oil, groundnut oil, rape oil and sesamum oil, to coffee, to tea, to castor seed, to tobacco and to ground nut, are of enormous advantage. What do these preferences secure to this country? They secure this, that the British Exchequer has given up £1,781,000 or 2 crores 27 lakhs of rupees in order to help this country to retain the United Kingdom markets in the face of severe competition from non-Empire countries. It further means that by granting these preferences the value of the trade which is made capturable by Empire countries from foreign countries is £31,562,000 of which India's share will be £10,106,000 or thirteen and a half crores. It was said that after all this preference will not benefit the agriculture of India, it will not lead to the expansion of the trade of India and that it might lead to a mere diversion of the trade of India. In support of this argument, it was said that after all the Indian agriculturist is not as responsive to the stimulus of external demand as the British industrialist was. My Honourable friend, Mr. Burt, has pointed out how untrue this generalisation was. He has shown how, in the last few years, areas under cultivation of jute, cotton, linseed have fluctuated according to the varying demand from foreign countries. Apart from the elasticity of the area under cultivation, it is also necessary to note that the increased demand from foreign countries

leading, as I shall presently show, to increased prices which will enable the agriculturist to develop his land by intensive cultivation and to increase the outturn of every crop that he grows. In order to understand this position, I shall quote to you just a few figures to show how far behind the rest of the world we are in the matter of outturn of crops in spite of the fact that our soil and our resources are as rich as those of any other country in the world. I will take the figures for the production of wheat measured in quintals, which is a French measurement. The average outturn in the Netherlands is 333 quintals per hectare, in Belgium 284 quintals, Germany 223 quintals, Japan 173 quintals, Canada 149 quintals, United States of America 105 quintals and India only 60. There is thus great scope for increasing the outturn of wheat by more intensive cultivation. Then I shall mention another crop. I refer to the coffee crop with which I am more familiarly acquainted. It is shown that by intensive cultivation such as better fertilisers, spraying methods and other methods which were recommended to the planters by the Director of Agriculture in Mysore, it is possible to raise the outturn of coffee by 25 per cent. every year. What enormous profit is open to the cultivator if by means of this preference he can increase the outturn of his crop and, at the same time, get better prices?

It is argued in the Minority Report, that there is no point in increasing the outturn or securing better prices for the produce if the money will go into the pockets, not of the cultivator, but of the *sowcar*, of the exporting houses and of insurance agents. Surely, Sir, that is an argument which seems to me to be typical of the arguments advanced against the Agreement. Suppose it was similarly said, what is the object of enhancing the fees of the lawyers practising at the bar, because some of the money may be lost by bank failures? What is the object of an argument like that? It has only to be mentioned to be rejected. There is another type of argument. A learned Professor of a University said before us: "After all, now-a-days most of the agricultural crops are produced at a loss, and what is the object of exporting crops which are produced at a loss? It only means inflicting a greater loss to the country." Sir, a more absurd argument could never be advanced. It might find favour perhaps among students in the lecture room, but among business-men in the market place it will be considered to be absolutely stupid. Surely, Sir, we might as well advise the cultivator in a spirit of non-co-operation not to cultivate his land, but to sulk in his hut. That, Sir, is the nature of the arguments which have been advanced in certain portions of the Minority Report.

With regard to the danger of retaliation by other countries, a great deal has been said by those who support the Agreement to show it was a mere bogey and it is unnecessary to repeat what has been said by them, but I would like to draw attention to one point and that is, that the scale of preferences has been so regulated as to give the maximum benefit to the agriculturists, not only in the Agreement itself, but also in the Schedule to the Tariff Act which is soon to be introduced into this House. For instance, one of the most salutary scales of preferences given under this Agreement seems to me to be the 15 per cent. given on vegetable oils. This would prevent the oil-seeds from being exported to foreign countries as they have hitherto been in large quantities with the result that oil-cake will remain in the country to serve as fertilisers. It has been said that with the export of the oil-seeds the life-blood of the soil

[Dr. F. X. DeSouza.]

of this country was being exported. By means of this increased preference, one of the consequences will be that fertilisers will remain in this country. Similarly, to prevent competition from Java and Sumatra in connection with cardamoms, kassia, cinnamon, cloves, and other spices, severe competition in which was, I think, brought to the notice of this Assembly some time ago, provision is made that the preferences with regard to these spices should be given not by lowering by five per cent. the ordinary preference with regard to Empire countries and by raising it by five per cent. in the case of non-Empire countries, but by maintaining the present rate of duties as against the Empire countries and raising it to 7½ per cent. with regard to non-Empire countries. Sir, I do not wish to expatiate, because my time is very short, on the advantages which this Agreement secures to the agriculturist, but one point I should like to bring to the notice of this House, and that is this, that the agriculturist throughout India just now is passing through a period of unexampled depression. Most of the prices of agricultural produce have fallen below the cost of production. From a perusal of the Review of Trade for the year 1930-31, I find that the loss in the export trade, that is to say, the loss to the agriculturist in the year 1930-31 amounted to 34½ crores under jute, Rs. 18½ crores under cotton, and Rs. 9 crores under oil-seeds, the total loss being Rs. 62 crores in these products alone and in respect of all the other agricultural products the total loss in value amounted to Rs. 90 crores. Thus, while the prices realised from the sale of these crops shrank to that extent and the income was reduced to less than half, the money payments to be made by the agriculturist remained the same,—that is, his money payments in assessments, his money payments in rent, his money payments in various cesses and his money payments in interest on the debts with which he is loaded. Meanwhile, in order to satisfy the industrialist, a 50 per cent. duty has been levied on the scanty articles of clothing he requires to purchase—25 per cent. on

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member's time is up.

Dr. F. X. DeSouza: All that I wish to say in conclusion is that it is absolutely necessary now to come to the aid of the agriculturist, and, therefore, in the interests of agriculture, I ask this House to ratify this Agreement.

Mr. Nadekumar Sing Dudhoria (Calcutta Suburbs: Non-Muhammadan Urban): Sir, really speaking, between the two Reports we are placed between two cross-fires. One set recommend us to accept the Agreement outright for three years tentatively, without putting forward sufficiently cogent reasons, except their cool collective assertion that it would be to the ultimate benefit of the country. The other tell us not to ratify it till the situation, that would arise therefrom, has been fully explored by a competent body, and adduces sufficiently good reasons in support of their proposition. We are thus at a loss as to what attitude we should take up in these circumstances.

On the other hand, Sir, all manner of people within the country consider the Agreement as an one-sided affair and an ominous bargain. The fact that it lays down the principle of reciprocity and also concedes

the right of denouncing it in case it works injuriously to India's interests does not at all prove its utility to her. We know from our practical experience that there is always a world of difference between a desire to repeal a law and the accomplishment of such a desire. Once a legislation is placed on the Statute-book, great is the difficulty to repeal it. Under the present constitution, as we all know, any measure that contemplates to repeal any existing legislation has to overcome so many difficulties in the way. It has first to obtain the consent of the Governor-General before it can be actually introduced. If it succeeds there and, again, in passing through the Assembly, it has still to pass through the Council of State, and even if that be accomplished somehow, the Governor-General still has the power to veto it. So to scrap the Agreement after it has once found a place on the Statute-book will not be an altogether easy affair. I should think, therefore, that this important constitutional aspect underlying the recommendation of the report by the Majority has either been conveniently overlooked or entirely lost sight of by them.

Sir, for a large number of commodities which India supplies to Great Britain, she holds a sort of monopoly or semi-monopoly in the British market and Britain cannot possibly take up any aggressive step against her without serious injury to her own industries also. Supposing she did so, it was also open to India to act in economic self-defence. But what will happen now? Non-Empire countries will now retaliate, as sixty per cent. of our foreign trade is with non-Empire countries. There is, therefore, the prospect of a larger loss to India in case those other countries retaliate against her.

From the point of view of Great Britain, again, there is no doubt that the Agreement will be of immense advantage to her. Her share of the Indian import trade which was about 63 per cent. before the War has now gone down to about 37 per cent. and her position would be much better if she could recover a large part of this lost ground. But from the point of view of India, there is little reason to hope for any considerable increase in her export trade with Great Britain where the population has remained stationary for about a decade. The English and the Empire markets have been purchasing India's exports practically at a uniformly constant or even diminishing rate for years past and the total value of our foreign trade with them has actually gone down. India cannot have an expanding market in Great Britain even if the demand of the latter should increase, because the advantage which the scheme extends to India will also go to the Dominions whose exports will compete with Indian exports in the British market. India's export trade is widely distributed, and in view of the fact that Great Britain is not an expanding market, the utility of the Indo-British Agreement is at best doubtful from India's point of view, especially when there is the possibility of retaliation on the part of our non-Empire customers.

Mr. Chetty, one of the distinguished Indian Delegates to the Ottawa Conference, evaded the question of retaliation on the part of non-Empire countries. He said that that aspect of the Ottawa Agreement applied not only to India, but to Britain and other Empire countries also, for the volume of export trade of Britain with the foreign countries was much greater than her trade with the Empire countries, and that if foreign countries retaliated against all parties to the Ottawa Agreement, England probably would be the one country that would suffer most by such a step. This comparison between India and England is distinctly irrelevant as

[Mr. Nabakumar Sing Dudhoria.]

England can easily do in her own economic interests what India cannot do. The nature of the two countries is in fact different and England can find an expanding market in India for her goods, but the share of India's export trade which England can purchase is not likely to increase.

Let us now examine what India has to gain by the proposed preference. The commodities on which we are to get preference are tea, manufactured jute, tanned hides and skins, ground-nuts, linseeds and other seeds, rice and other food grains, manures, coffee, tobacco, spices, shellac, linseed oil, vegetable oils, sandal oil, oil cakes, cotton manufactures, coir manufactures, carpets and rugs, pig lead and pig iron, etc. These commodities roughly amount to 40 crores of rupees and we thus get preference on our exports to the extent of about Rs. 40 crores. Nearly the same amount is represented on the imports side on which we allow preference to Great Britain. Apparently, therefore, the transaction seems to be fair and equitable. But a careful scrutiny has shown that all concessions offered to India are more or less illusory, but those allowed by India to Great Britain are substantial.

To come to the other side of the question and to consider Britain's gain, one will be struck by the wide range of commodities on which we give preference and the extent of the benefit going to England. We get preference of goods which do not compete with British goods, but the articles on which we give preference will cause a direct competition with our own indigenous products. We grant preference on cotton piecegoods which alone constitute about 16 crores. Iron and steel are already on the preference list and hardware and building materials will also compete with indigenous products. Chemicals and drugs and paper and stationery come in direct competition with our home-made goods and preference on soap and toilet manufactures will hit our cottage industry quite hard. These commodities amount to about 27 crores and in them we shall feel direct competition. Thus preference seems to have been granted indiscriminately without keeping in view the fact that it should have been limited to those commodities alone which cannot be easily and profitably produced in India, and on which preference would not impose too great a burden on the consumer.

Again, Sir, preference should have been limited to a small number of articles. Thus the Fiscal Commission rightly remarked when it said:

"The commodities selected must be as far as possible those in which British manufactures already held an important part of the market and in which the grant of preference is likely to develop rapidly the portion of the market that they will command, so that the burden on the consumer will be removed at an early date."

But the Ottawa Agreement fails to satisfy this test also so wisely laid down by the Fiscal Commission.

Mr. Lloyd George, in an article contributed by him to the *Manchester Guardian*, just after the Ottawa business was over, summed up the position resulting out of the Ottawa Pact in these words:

"There is little prospect of any marked addition to British prosperity as a result of the close-fisted huckstering and haggling of the Conference. The Commerce of Britain, imports and exports with the United States of America, the Argentine, Holland and Russia will sustain serious impediments. That may do some damage to the trade of these countries. But Britain, the international trader, must be hit much harder. . . . Ottawa will not help world trade to recover its resilience. It might

well constitute an additional hindrance in the way of such recovery. It will not remove existing restrictions, but will add many. . . . Those whom the Gods wish to destroy, they first make mad. The world has been bitten with the rabies of national exclusiveness, and Ottawa has proved to be no Pasteur Institute."

We must not ignore also the fact that six of the well-known Liberal Members have resigned their seats in the Parliament on five main objections to the Ottawa Agreement. Their objections are: First, that the whole policy of hard bargaining on trade matters is wrong. Secondly, that the Agreements include an undertaking that the British Parliament will not reduce certain duties on articles imported from foreign countries during a term of years without the consent of the Dominion Governments. They say that apart from the question of whether any Government is entitled to give such an undertaking, Parliament itself cannot properly enact a Statute of this nature. Thirdly, that the World Economic Conference is about to meet and it is essential that Britain should be free to enter into any agreements that are practicable and advantageous for the expansion of her trade with foreign countries. Fourthly, that the Tariff concessions to be made by Dominions and India will undoubtedly benefit some branches of "our trade", but these advantages will not make a substantial difference to the number of the unemployed. Moreover, most of the reductions are hedged round with conditions and qualifications that make them very problematical. Fifthly, that a series of taxes and quota restrictions on a long range of foodstuffs and raw materials are to be imposed or made permanent and the freedom of these commodities from taxation and restrictions is vital to the welfare of the working classes. Thus, Sir, it is manifest that the Agreement has been considered of somewhat doubtful merits even by responsible persons in the United Kingdom. India, which is yet under the leading strings of England and enjoys fiscal autonomy in name only, may have just grounds for her suspicion but, Sir, on the eve of fresh constitutional advance, we can and ought to accept the Agreement as an experimental measure, only for three years, by way of a friendly gesture to England and in order to show her our friendship and goodwill in her hour of need, as we cannot be indifferent to her welfare. But, Sir, I am entirely opposed to the proposal for the formation of an *ad interim* Inquiry Committee of the Assembly for quite obvious reasons. I should fight shy of that proposition lest my honourable colleagues should be ultimately besmirched, for reason or no reason, by direct or indirect considerations for vested interests in the course of their task. After all, Sir, they are frail human beings.

Sardar Sant Singh: Sir, we find ourselves in a very unenviable position today. When the Resolution was placed for discussion on the first day we supported the amendment of my friend, Dr. Ziauddin, because there was a clear divergence of opinion on the merits of this Agreement. The advocates of the Agreement were praising it to the skies while the whole press of India vehemently denounced it and the commercial interests condemned it with a singular unanimity. Under such circumstances, the only right course open for those of us who had not made up their minds one way or the other, was to appoint a Committee to examine the Agreement and its probable effects on Indian trade and industries and report to this House. The considerations that influenced our course of action were the following. Firstly, we suspected that the Agreement was imposed upon India from above and, secondly, the way in which the negotiations were carried on by the Government of India to partake in the

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proposed conference gave rise to justifiable fears. This House was in Session then and, as has happened before, this House was completely ignored, if not deliberately kept in the dark, as to the course the negotiations were taking. The Delegates were nominated without consulting or even making reference to the interests likely to be affected by the proposed arrangement. In such circumstances, it was but natural for us to look upon this Agreement with suspicion. The Government of India cannot escape this criticism that they did not care to consult those interests which were to be vitally affected, specially so when the whole previous policy of the Government of India, laid down since the time of Lord Curzon, was to be radically altered in consequence of this conference. It was only fair to us that the scheme should have been made public then and vital interests consulted before any commitments were made by agreeing to send Delegates to the Ottawa Conference. Such was the position, Sir, when we agreed to appoint a Committee to go into the question and give us the benefit of their inquiries. We wanted a report, a convincing report based on the rock of solid facts and figures throwing more light on the subject. But, instead, we find the Committee side tracking the whole issue. Obviously the Committee has not carried out the mandate of this House. On the contrary, they have gone there and finding that the examination of materials is a tedious affair and a strain on the nerve, opened negotiations with the Government. In place of confirming a five years' Agreement they propose that we should accept "three years" with the proviso of a Vigilant Committee.

Sir Hari Singh Gour: There was no five years' Agreement at all.

Sardar Sant Singh: If it was not for five years, it was for an indefinite period, and the advantage they want to point out is that they have limited it to three years. But that does not make any difference in my argument. What I want to know is, whether this Agreement will be for the benefit of India? That is the main question and that was the question. To this question, we get the reply "they cannot say". If they cannot say anything definitely and if they want to take a leap in the dark, as some of the advocates of this present compromise have stated, then I request my friends to tell us what their reasons are for asking the whole country to plunge into a black gulf from which probably there may be no escape. What I cannot understand is this: the whole country is against this Agreement; the commercial interests are against it. My friend, the Deputy Leader, asked me how did I know it. I ask him, what did he know by examining four experts and what were their conclusions? It is for him to know that. We did not have the privilege of looking into that evidence. At the same time, the investigations of this Committee were carried on *in camera*. But my point is that the whole country is against it: trades and industries are against it and the agriculturists are against it. I ask, why should they take upon themselves the odium of the whole country and why should they advise the whole country to plunge into this venture without having themselves arrived at conclusions which will be definite, conclusive and convincing? There is no sense in such a Report. Suppose the country is in the wrong. Has not the country a right to make a mistake? By this Agreement they want to unsettle the whole course of the established trade. They want to do it on a doubtful advantage of having secured a Committee of Watch and Ward which will watch the results of this new

venture. My submission is that this is not the way in which trade interests are to be guided or protected. It is preposterous that instead of giving us their conclusions they want to make an experiment and give their conclusions, after having made that experiment. That is a position which no sane man can accept. As regards the particular interests which I represent in this House, namely, the Punjab agricultural interests, I have to say a few words about wheat and cotton which are the two principal commodities affected thereby. Here I am on a firmer ground. Both the Majority and Minority Reports are agreed on this that Punjab wheat cannot profit by this preference.

The Honourable Mr. Burt tried to make out that they have vast fields yet open to cultivation, and my friend, Dr. Ziauddin, said that there was plenty of land still lying vacant to be cultivated and there was a vast field of expansion of production. This is so. But both of them ignore that one important factor and that really counts, I mean the cost of production and its relation to the ultimate price of wheat in this country.

Dr. Ziauddin Ahmad: If it is profitable, I said.

Sardar Sant Singh: Yes. The cost of production, so far as the Punjab is concerned, is about Rs. 8 per maund and here too there is hardly any margin for profit, to the cultivator. It is said in the Report that if the Sukkur Barrage comes into operation, that will promote production. Supposing that happens, shall we be able to export wheat in competition with Australia and Canada? Even if we succeed, which is highly improbable, then we will have to compete with the rest of the wheat producing countries, for a condition laid down in the Agreement itself will have to be satisfied. The United Kingdom will purchase our wheat only if it is sold at the world market prices. In such conditions, India cannot export any wheat during the proposed three years of the Agreement. It does not profit the growers. Then remains cotton, the only commodity which brings some money to the cultivators. In that commodity, the United Kingdom has refused to give any preference. The argument has been accepted by our delegates that they cannot be forced into an Agreement for giving preference to Indian cotton. The reason given is that long and medium staple cotton is not grown in India. The promise made is that steps will be taken to promote the development and production of long and medium staple cotton in the Punjab and elsewhere. In this respect, I say, Sir, that here was the case of this commodity where the United Kingdom was called upon to make some sacrifice for the benefits that she was getting from Indian preferences; but she refused; she would not listen to it and turned down the proposal. We are going to be fed upon mere promises of future marketing, and so forth. May I ask my friends whether if medium and long staple cotton begins to be cultivated by the cultivators, will it not first of all be supplied to the Indian industries themselves? Will it not be possible for the Indian textile mills to absorb all the cotton that can be grown within three years, even if it be possible to reach the illiterate cultivators to take to this particular cotton. My submission is, that this promised advantage given by the United Kingdom is a mere illusion. If we succeed in growing that cotton, it will not be sufficient for the requirements of India herself. The cultivators will not profit by it. Then there is another reason. Japan is the principal buyer of our cotton. When I recently visited Lyalpur

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I made inquiries of the ginning factories from the cultivators. The result of my inquiries has been that the prices are steadily going down. One of the reasons being that Japanese firms are declining to do any business in the Indian cotton till this Ottawa Agreement is disposed of. The cultivator is benefited if the price of the cotton be high at this time when he markets it; later on, it may benefit the middleman, but not the cultivator. The cultivator stands to gain now if the prices go up; but, instead, they are going down. My friend, Nawab Sir Zulfikar Ali Khan, who represented the Punjab Agriculture on the Committee has signed the Majority Report under the impression probably that certain facilities will be allowed to Punjab wheat so that Punjab wheat may be able to compete with Canada and Australia in the United Kingdom markets. He is entirely mistaken in that view. The three conditions laid down by the Nawab Sahib are the reduction in railway freight, reduction in the water rate charges and reduction in shipping freight. Take the first condition. The water rate is a transferred subject. Irrigation is a transferred subject and the Government of India have got no control over the reduction. As for railway freight, several complications are likely to arise if such a commodity as wheat establishes a claim for cheap freight: it is possible that other agricultural commodities will put forward such a claim and probably the railways will not be able to meet them. Under the circumstances, these conditions will not be fulfilled and I do not know in what way he expects his wheat to go up in price. With these words, I oppose the amendment.

The Assembly then adjourned till Eleven of the Clock on Tuesday, the 6th December, 1932.

LEGISLATIVE ASSEMBLY. 7 DEC

Tuesday, 6th December, 1932.

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

MEMBER SWORN.

Mr. David George Mitchell, C.S.I., C.I.E., M.L.A. (Secretary, Legislative Department).

QUESTIONS AND ANSWERS.

DESIRABILITY FOR EFFECTING ECONOMY IN CANTONMENTS OF THE SOUTHERN COMMAND.

1592. *Sardar Sant Singh (on behalf of Sirdar Sohan Singh): (a) Is it a fact that the General Officer Commanding-in-Chief, Southern Command has impressed upon all Cantonment Authorities under his Command, the desirability for effecting economy by reduction of surplus establishment and by making new appointments on reduced salaries in case of Cantonment Fund employees?

(b) If the answer to the above question be in the affirmative, will Government be pleased to furnish a statement showing in detail the way in which these instructions have been carried out till now in each of the following Cantonments with a view to make them self-supporting:

1. Ahmednagar. 2. Belgaum. 3. Deolali. 4. Mhow. 5. Neemuch. 6. Poona. 7. Ahmedabad. 8. Baroda. 9. Pachmarhi. 10. Kamptee?

Mr. G. B. F. Tottenham: I have called for a report and will lay a reply on the table in due course.

CANTONMENTS IN THE SOUTHERN COMMAND WITH AND WITHOUT DEFICIT BUDGETS.

1593. *Sardar Sant Singh (on behalf of Sirdar Sohan Singh): Will Government be pleased to state the names of those Cantonments and particularly the smaller ones in the Southern Command, which have no deficit budgets and also those which have deficit budgets owing to the withdrawal of Government grants?

Mr. G. B. F. Tottenham: The Honourable Member appears to be under a misapprehension: no budget deficit is left uncovered. Baroda and Santa Cruz receive grants-in-aid from Army Estimates while Secunderabad and Aurungabad receive subventions from the local Abkari funds. All other Cantonments in the Command are self-supporting.

ECONOMY AND RETRENCHMENT IN CANTONMENTS BY THE GRANT OF ELECTED BOARDS.

1594. *Sardar Sant Singh (on behalf of Sirdar Sohan Singh). Have Government considered whether the desired economy and retrenchment could be best attained in small Cantonments, if they are granted elected boards wherever the civil population is 2,500 or more?

Mr. G. R. F. Tottenham: The Government have no reason to believe that the constitution of elected boards in small Cantonments would secure any economy.

REFUSAL OF AN ELECTED BOARD TO THE BARODA CANTONMENT.

1595. *Sardar Sant Singh (on behalf of Sirdar Sohan Singh): (a) Is it a fact that the civil population of Baroda Cantonment numbering 2,585 was refused a Board on the grounds that this civil population is composed of "troops' families and persons of the menial and follower classes with the exception of a few Baroda State officials or pensioners and Mission boys who visit the Cantonment for training purposes"?

(b) If so, will Government be pleased to state the total number of Troops' families, followers and menial classes, which is alleged to form part of the civil population (2,585) in the Baroda Cantonment? Are Government prepared to reconsider the decision if the grounds assigned for the refusal of a Board are found to be at variance with actual facts?

Mr. G. R. F. Tottenham: (a) Yes.

(b) I have called for detailed information and will lay a reply on the table in due course.

EXECUTIVE OFFICERS AND SENIOR MEDICAL OFFICERS IN CANTONMENTS PAID BY GOVERNMENT.

1596. *Sardar Sant Singh (on behalf of Sirdar Sohan Singh): (a) Is it a fact that in some Cantonments, the Executive Officers and Senior Medical Officers are paid by Government and not out of the Cantonment funds?

(b) If the answer to the above question be in the affirmative, will Government be pleased to furnish a statement of those Cantonments, in which the Executive Officers are paid by Government and no allowance is paid to the Senior Medical Officers for supervising the Cantonment Dispensaries?

Mr. G. R. F. Tottenham: (a) Yes.

(b) I presume that when referring to Senior Medical Officers the Honourable Member is thinking of Officers of the Indian Medical Service or Royal Army Medical Corps. All such officers in charge of Cantonment Hospitals receive an allowance from Cantonment funds.

HIGHER SALARIES DRAWN BY THE STAFF OF THE BARODA CANTONMENT.

1597. *Sardar Sant Singh (on behalf of Sirdar Sohan Singh): (a) Are Government aware that though the Baroda Cantonment is comparatively much smaller as regards population, area, income, and work than a number

of other cantonments, its office staff are drawing salaries decidedly higher than what the staff in other cantonments do?

(b) Are Government aware that in the Baroda Cantonment before 1920 its Head Clerk had to perform fairly heavy criminal and civil judicial work over and above the cantonment fund work on a salary ranging from Rs. 40 to Rs. 80 per month and is it a fact that this salary was at once raised to Rs. 150 about 1920? If so, why? Is it a fact that since 1924 the Head Clerk and other clerks, etc., were relieved of the heavy judicial work on its transfer to the Residency Office and the cost of living has now gone down to the pre-war level and that the Head Clerk, Tax Collector and Sanitary Supervisor are still drawing the increased salaries and allowances?

Mr. G. R. F. Tottenham: I have called for a report and will lay a reply on the table in due course.

COMPETITION OF AMERICAN FRUITS WITH THE KULU VALLEY FRUITS.

1598. *Mr. K. P. Thampan (on behalf of Mr. Jagan Nath Aggarwal): (a) Are Government aware that fruit growers in the Kulu valley have suffered considerably of late owing to the Indian markets being flooded with American fruits and that the latter are competing successfully with them?

(b) Are Government aware that this is due to great increase in postal charges during recent years?

(c) Is it a fact that the only route from Kulu to Pathankot is via Mandi State and that in that State there is a monopoly for motor lorries and a toll is levied on all heavy and light cars passing through the State?

(d) Are Government aware that fruit growers have no other means of transportation and that the fruit industry is suffering heavily on account of toll-charges and monopoly of motor traffic on the said road?

(e) Is it a fact that postal charges on fruit parcels were raised in 1920-21 by 25 per cent. and in 1931 by another 25 per cent. making an increase of 50 per cent. on the whole?

(f) If the answers to the above are in the affirmative, are Government prepared to take steps to relieve the distress of Kulu fruit growers? If so, what?

Mr. T. Ryan: Enquiries are being made and a reply will be placed on the table in due course.

DEPORTATION OF MR. RANBIR SINGH.

1599. *Mr. K. P. Thampan (on behalf of Mr. Jagan Nath Aggarwal): (a) Are Government aware that Ranbir Singh, B.A., son of L. Khushal Chand, Editor of the daily *Milap*, Lahore, was arrested on 21st September, 1932, under Emergency Powers Ordinance Section 3 for a period of two months which was to expire on 20th November, 1932?

(b) Is it a fact that at about 9 P.M. on the night of the 19th November, 1932, he was taken away from Lahore Fort, where he was detained, to Lahore Cantonment Railway Station and thence has been taken to an unknown destination?

(c) Is it a fact that he has been deported under Regulation III of 1818? If so, will Government be pleased to state the reasons for taking this step against him?

(d) For how long is he to be kept in detention? What allowance has been fixed for him and will he be allowed to carry on his studies and literary pursuits during his deportation?

The Honourable Mr. H. G. Haig: (a) Yes.

(b) and (c). He has been detained under Regulation III of 1818 for reasons of State which I am not prepared to make public.

(d) I would refer the Honourable Member to the reply given by me on the 5th December to parts (c) and (d) of Bhai Parma Nand's question No. 1549 on the same subject.

MEETINGS HELD IN LAHORE IN CONNECTION WITH THE REMOVAL OF UNTOUCHABILITY.

1600. ***Mr. K. P. Thampan** (on behalf of Mr. Jagan Nath Aggarwal): (a) With reference to the answer given by Government to a question by Mr. Gaya Prasad Singh on the 14th November, 1932, that the question of removal of untouchability had nothing to do with politics and that it was a question of moral and religious reform, are Government aware that meetings held in Lahore in connection with the fast of Mahatma Gandhi relating to the question of the removal of untouchability were treated as political meetings?

(b) Are Government aware that certain gentlemen, viz., Messrs. A. C. Bali, Hem Raj, Gurbux Rai, Kalyan Das, and Master Jassu Ram have been arrested for taking part in those meetings, though the notices served on them under section 4 of the Special Powers Ordinance allowed them to take part in purely religious processions or meetings?

(c) Are Government prepared to take any steps in the matter?

The Honourable Mr. H. G. Haig: I have no information but have made enquiries and will lay a statement on the table in due course.

PROVISION OF PROPER DRAINAGE IN KAROL BAGH, DELHI.

1601. ***Shaikh Fazal Haq Piracha:** (a) Will Government please refer to the portion quoted below of Mr. Bajpai's reply on the 24th March, 1932 to the starred question No. 957 by Mr. S. C. Mitra in regard to the lack of drainage in Karol Bagh?

"... Meanwhile everything that can be done with available resources is being done to ameliorate the conditions of life there."

(b) Are Government aware that the lane in Karol Bagh lying to the south of plots Nos. 25 and 26, Block B.D., on the Khajoorwala Road, is in a most insanitary condition?

(c) Are Government aware that the owner of these plots has repeatedly represented to the Delhi Municipality to do something to ameliorate the condition there, that the Health Officer of the Municipality has visited the site for a number of times, but that the Municipality have expressed their inability for the present to take any action in that connection stating that "the attention of Government, to whom this estate belongs, has repeatedly been drawn to the absence of drains and as soon as the Government of India are in a position to provide funds, suitable steps will immediately be taken to remove the cause of complaint"?

(d) Are Government aware that the matter represented did not necessarily involve the drainage scheme as a whole?

(e) Do Government intend to ascertain from the Municipality why they have taken no action in regard to the drainage of the lane, or do Government intend to undertake to provide proper drainage themselves?

Mr. G. S. Bajpai: Enquiries have been made and the information will be furnished to the House in due course.

RESOLUTION RE TRADE AGREEMENT SIGNED AT OTTAWA— concl'd.

Sir Abdur Rahim (Calcutta and Suburbs: Muhammadan Urban): Mr. President, we all feel that this is the most momentous question that has ever been brought before this Assembly or any other Legislature in this country for a long time. Some of us feel very strongly on the point and are convinced that this Agreement is not in the economic interests of this country. I am conscious, Sir, that opinion is greatly divided in this House. The Government will secure a very large support for this Agreement, larger support than they have ever been able to secure on any other question that has agitated the public mind in the country.

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions: Muhammadan Rural): Hear, hear.

Sir Abdur Rahim: My friend, Sir Muhammad Yakub, says "Hear, hear", but he always supports the Government and, therefore, his voice does not count.

Sir Muhammad Yakub: You have supported the Government for a much longer time than I do now.

An Honourable Member: Both of you sail in the same boat.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order.

Sir Abdur Rahim: Sir, I supported the Government in all matters in which I thought Government were right when I was a Member of the Bengal Government, but whenever I thought that Government were in the wrong and I was free to vote as a Non-Official Member of this House or of the Bengal Legislative Council, I never had any hesitation in opposing the Government tooth and nail (Applause from the Opposition Benches), and if my friend, Sir Muhammad Yakub, is so curious, I would ask him to look into the records of the Cabinet of the Bengal Government and he will find that even inside that Government I never hesitated to vote against the majority if I thought I was right. (Applause from the Opposition Benches.)

Sir, it has been said that I am implacable in my opposition to this Ottawa Scheme. I do consider it, and I did consider it, as soon as I read the Report of the Delegation, that it was a pure and simple gamble playing with the economic fate of millions of people of this country, and,

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on that ground, I felt from the very beginning that unless we made a further study, unless we made a most extensive investigation into the various interests affected, it would be my duty to oppose this Agreement tooth and nail. I know, as I have said, Government will have a large majority to support this scheme, a scheme which is not theirs, but which has been thrust upon India by the British Government to which this Government are subordinate. The Government of India were not at liberty, even if they wanted to reject this Agreement, to do so, and that explains the peculiar procedure that was adopted in this case, different from the procedure adopted with respect to the self-Governing Colonies. I have alluded to that in my speech on the previous occasion and read out a passage from Mr. Stanley Baldwin's speech in support of my contention. Indeed, the Government of India's procedure struck me as very peculiar, because of the speech of Mr. Stanley Baldwin. So far as the Government of India are concerned, therefore, though I attach great value to their opinion in many matters, in this matter I am unable to attach any value to the Government of India's opinion whatever. Sir, I am also aware, and I admit frankly that not only numerically they will have a large number of votes even from this side of the House, but I am fully conscious that votes have different moral values on different occasions. For instance, if my Honourable friend, Mr. Arthur Moore, the Leader of the European Group, will vote with us tomorrow on the Ordinance Bill, and so also Mr. Ramsay Scott, and Mr. Morgan, I would consider that a very great triumph indeed for us even if a majority of votes be in favour of the Government. Similarly, I do not wish to discount the fact, nor can I do so, that Government on this occasion will have the votes of my Honourable friend, Dr. Ziauddin Ahmad—I do not find him here,—of Mr. Mody, of Sir Hari Singh Gour, and Mr. Ranga Iyer. (An Honourable Member: "Haji Abdoola Haroon.") Sir, he and Mr. Chetty were members of the Delegation and, therefore, I did not mention their names. I have no doubt that the votes of these gentlemen and some others who may perhaps follow them will be made very much of by the Government, by the British Conservative Government who have put forward this scheme—a scheme which they have been pursuing ever since the days of Joseph Chamberlain.

Now, let me deal with some of the speakers. I am sorry that my Honourable friend, Mr. Morgan, is not in his seat, because he charged the authors of the Minority Report, my Honourable friend, Mr. Raju, Diwan Bahadur Harbilas Sarda and myself, with having been influenced by political prejudices against Britain. I repudiate that charge as false and unfounded. (Cheers from the Nationalist and Independent Benches); the very passage he quoted from the Minority Report belied that charge. I am sorry that the Honourable Member, whom I know well—and he is a very mild mannered gentleman indeed—should have been carried away by his enthusiasm for Empire preference to lay this charge against us,—a charge either by way of propaganda or arising out of racial pride. Sir, he told us that the jute mills were doing very badly; a number of looms were sealed; and he expected that preference to jute manufactures would help the industry. He is a business man; I believe he is connected with the jute business, and he is entitled to his opinion. But I know this, that even in the most flourishing days of the jute industry, the poor growers of jute, my own countrymen in Bengal, did not benefit much

by it. And that is exactly the position now. The jute producers of East Bengal, who toil all day and night to grow this commodity,—are they going to benefit? From past experience I say that they will not; they are as likely to lose as to benefit. If they benefit at all, it will be so little that it can very well be neglected.

Now, I come to my Honourable friend, Mr. Mody. Sir, when I listened to him, it seemed to me that he was so excited with joy over this Agreement that he lost that calm demeanour which always characterises him. I am not a business man and I have not a business man's mentality; but there must be something very valuable in the Report or behind it which excited him and caused so much elation in my Honourable friend, Mr. Mody. I will not try to flog at him what he said on the previous occasion in this House. He is perfectly entitled, on further investigation, after the intensive study which he gave to this question during the six days that we sat—during three days of which he was absent—(Laughter)

Mr. H. P. Mody (Bombay Millowners' Association: Indian Commerce): Was I? No, Sir. On a point of explanation, may I say that I was only away just one day and no more, and that was a Saturday.

Sir Abdur Rahim: He was away from Delhi I think for two or three days.

Mr. H. P. Mody: That does not mean being away from the Committee.

Sir Abdur Rahim: I take it that he was continuing his study in the train. (Laughter.) He is overjoyed at the prospect of Indian producers of raw products capturing the British market, monopolising the British market. It almost seemed that his mouth watered at that prospect. May I put to him one question? Is it so easy, a business man as he is, to capture markets? What about his own industry, the cotton mill industry of Bombay? He is the Chairman of the Millowners' Association; he is their representative here and their spokesman. Has he not been seeking protection after protection for his own industry, even though so well organised, so largely supplied with capital? If that be so, is it sober judgment for any one to say that the poor starving agriculturist of India, unorganised, illiterate, a prey to middlemen—that he is in a position to capture within the space of three years the British market with his raw product? Sir, it is beyond common sense to believe an assertion of this kind. Then, Mr. Mody, I am sorry, ridiculed us for showing so much interest in the fate of the industries of India. I was wondering at that time if it was not somewhat strange for the representative of the cotton industry of Bombay to ridicule, to hold in slight estimation the support of Members of this House. Why? Because Mr. Mody knows,—a shrewd business man as he is, he knows very well that this Assembly does not now count at all; that it is the Government that is the most powerful body; that it is the Treasury Benches that dominate this Assembly. Therefore, it is not us that he is out to placate. His interests lie in supporting the Government. It was very rightly pointed out by my Honourable friend, Mr. Ramsay Scott, whom I know very well, and I know to be a very candid and sincere man—he told us frankly that it is

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the powerful industries of iron and steel of the Tatas and the cotton mills of Bombay which alone can influence the Government, and can protect themselves, but our poor struggling industries have no voice with the Government, no influence with them at all. Sir, if you look at the Report of the Delegation which I shall presently refer to, this is absolutely clear. So far as textiles are concerned, the subject was under inquiry by the Tariff Board and the Report points out on page 14:

"It may be well to explain the reasons why we felt it impossible to include in Schedule F the goods separately listed in Schedule G. In principle, there is no objection to a preference on textile goods which are not subject to protective duties, but we felt it would not be right to commit the Government of India finally until the Report of the Tariff Board had been received and considered."

With regard to the steel industry, what was the procedure adopted? The Tariff Board's inquiry into the steel industry is not to come on until 1984. So what was done was this. A representative of the steel industry, if my information is correct and I have it on very good authority, was sent for post-haste to London so that he was in a position to arrange with the manufacturing houses of Britain and we know what the result of that negotiation is. I accept the word of Mr. Dalal who appeared before us that the Agreement they have been able to conclude is in the interests of his firm. I may mention by the way that he offered no opinion whatever on the Agreement as a whole. Only he said it was for the benefit of the steel industry. He further told us that the position of the firm with regard to pig iron was bad and, therefore, in order not to lose the British market for pig iron, he was compelled to enter into an arrangement with the British manufacturers with regard to galvanised sheets. But this sort of arrangement is at any rate not in accordance with the policy which this Assembly laid down with respect to the Tata Iron and Steel Industry when they gave protection. The arrangement is that they will make the bars and send them to Britain in order to convert them into galvanised sheets and then the British manufacturers will send them here to their agents for sale. The fate of the other industries was not taken into account at all, throughout the Delegation's Report. I do not find that even a list is given of the other industries which are trying to raise their heads in this country behind the shelter of the tariff revenue duties. In the Special Committee I asked for a list of those industries, but we have not received it yet and I believe such a list is not forthcoming. This is the position with reference to the industries which are not so well favoured and so influential as Mr. Mody's. With regard to the India industries generally, as I am on this subject I may point out before I pass on to the other speakers, that the question is disposed of in paragraph 89 of the Delegation's Report on page 15. It says that Article 14 gives us the chance to protect them as we like. Now let us see what Article 14 lays down: It says this:

"In the event of circumstances arising which in the opinion of either party necessitate a change in the rates of duty or margins of preference settled by the Agreement on any particular description of goods that party shall notify and consult with the other party with a view to adjustments being agreed upon. If no Agreement is reached within six months of the date of such notice, it shall then be open to the original party to give to the other party six months' notice of his intention to carry into effect the change desired in the rate of duty or margin of preference on goods of the description named in the original notice and to bring the revised rate or rates into operation at the expiration of this period."

Now, so far as I can judge, this Article is not at all explicit. It does enable India to negotiate with the British Government regarding any particular article if we wish to vary the rates of duty. That is an Article of very general application, but one would have expected that on a matter of this importance when we are entering into an Agreement which is bound to affect our growing industries and industries which have a chance of establishing themselves in the future, that there should be a provision in the Agreement to the effect that it shall not in any way interfere with the policy of discriminating protection which we have adopted. That policy was well known to the Delegation and the Government of India. Why was not an express clause to that effect put in in the Agreement? India's industrial condition is such that it is necessary that we shall give full effect to our policy of discriminating protection, and the Agreement should in no way stand in the way of the policy which we have adopted after very careful consideration and investigations and in order to effectuate which we have instituted a Tariff Board. I have gone through the Agreement time after time and I say, subject to correction, that there is no explicit provision with reference to this matter. At the beginning of the Schedule, it is mentioned that it will not affect the duties on certain classes of goods mentioned in the Tariff Act. That does not affect the position. We have no protective clause of a specific character. Now I come to my friend, Dr. Ziauddin Ahmad, who is still not here. (A Voice: "He is here.") I am glad he has come. He is a great mathematician and I have great respect for him and he is a valued friend of mine, but unfortunately figures have such a fascination for him that he is liable to overlook other considerations. Sir, from the very beginning of the deliberations of the Select Committee—I am disclosing no secret to which he can object—the balance-sheet had a great value in his eyes, and he had one prepared, but I find that even Mr. Burt—I was not here when he spoke but judging from the report I have seen of his speech in the papers—even he does not attach any value to the balance-sheet, and I do not think that any other signatories to the Majority Report have attached any value to the so-called balance-sheet. Obviously, then, Sir, whatever mathematical value the balance-sheet may have, it has no economic significance whatever. Dr. Ziauddin began by saying in his note that the whole Ottawa Scheme was a leap in the dark on the part of Great Britain and I think, in the course of his note, he also says that we are equally in the dark so far as the position of India is concerned; that is to say, both the sides are taking a leap in the dark.

Dr. Ziauddin Ahmad (United Provinces Southern Divisions: Muhammadan Rural): I never said that India was taking a leap in the dark.

Sir Abdur Rahim: This is the sentence I was thinking of:

"It is impossible to visualize at this stage, with the materials at our disposal, the effect of the Ottawa Agreement on agricultural products or on our industries and on the pockets of the consumers."

Now, Sir, only men with eyes can visualize, and if this is not a leap in the dark, I should like to know what is. That is the position of my friend, Dr. Ziauddin Ahmad, another signatory to the Majority Report. Now, my Honourable friend, Mr. Ramsay Scott, pointed out in very forcible language that the inquiry hitherto has been quite insufficient so far as the industrial position is concerned; but, like a true Briton, he is loyal to Empire preference.

[Sir Abdur Rahim.]

My friend, Mr. Sadiq Hasan, told us frankly that the carpet industry, in which he is very largely interested, is likely to benefit to some extent, but, like a true Indian patriot, he is prepared to sacrifice whatever probable benefit his own concern might derive, because, in his opinion, the larger interests of India were at stake. Now I come to my friend, Sir Hari Singh Gour. He attaches very great value to the safeguards that he has devised. Now I put it to him, if responsible Government is in store for us, say, at the end of one or two years, is any safeguard at all necessary? Absolutely not. Supposing we have no responsible Government under our next constitution, then in that case we have a vivid picture of this Assembly before us to guide us as to what the next Assembly will be like. Supposing there is a large block of nominated members,—nominated, as my friend points out, by the Princes—then I say that that Assembly will certainly not be better than the present one. Where then is the benefit or the value of that safeguard, if the Assembly itself is weak and is going to be dominated by nominated men? In that case, the Assembly will vote in favour of any scheme put forward by the then Government. He also said that acceptance of the Agreement would be a great gesture to the Round Table Conference, to Great Britain and to the Dominions. Sir, I entirely agree, yes. They are cogitating at the Round Table Conference over safeguards for trade relations, for trade and commerce of Great Britain, and the vote of the Assembly in favour of the Ottawa Scheme will give them the necessary model on which to base those safeguards, that is, a provision by which preference is to be given to British manufacturers, whatever the sacrifice that may be involved to Indian manufacturers. Sir Hari Singh Gour wound up by giving us a parody of Umar Khayyam that after having listened to the discussions and arguments in the Special Committee, he came out by the same door by which he had gone in. True, but he will walk now into a lobby different from what he would have otherwise gone into, and that is a great difference. Sir, the question under discussion is of very great importance; and I submit that having regard to the hurried and wholly insufficient inquiry we have had so far, we would not be justified in reversing our policy which has been established since the days of Lord Curzon. It was forcibly pointed out not only by Lord Curzon in 1903, and by the Fiscal Commission, but also by Sir Geoffrey Corbett at the last Imperial Conference in 1930, that it is not in the interests of India to embark upon any scheme of Imperial Preference. Any scheme like that is not for the benefit of India. Sir, are we justified, on the materials which have been furnished to us, to depart from a well-established policy like that? It obviously involves considerable risks to the future economic development of India and are we, as Members of this Assembly, in a position to say: "Yes, let us take our chance". Sir, I have been told that I am irreconcilable. I know the majority of this House favour the Ottawa Agreement, but I have the satisfaction of knowing that the country is behind me. (Applause.) Every opinion that has been expressed in the Press so far supports me. In the Special Committee itself we examined a number of witnesses and they were unanimously of the opinion that the Ottawa Agreement was not in the best interests of India. Sir, we went to that Committee for that very purpose, to obtain expert and business opinion, at least that was one principal object we had in view, and the advice that was given to us was entirely opposed to this scheme. Sir, there is no mention in the Majority Report even of the existence of

that evidence. Under these circumstances, I submit that it will be taking not only a plunge in the dark, but we shall be taking grave risks and, so far as I am concerned, I am certain that we shall be endangering the economic interests of India if we enter into an Agreement like this.

*Mr. R. K. Shanmukham Chetty (Salem and Coimbatore *cum* North Arcot: Non-Muhammadan Rural): On the last occasion, Mr. President, my Honourable friend, Sir Abdur Rahim, levelled the charge that the procedure followed by the British Government in dealing with the Government of India in the matter of the Ottawa Conference was essentially different from the procedure followed with regard to the Dominions and he further stated that the Government of India were not free agents in dealing with the British Government at Ottawa. He reiterated that charge again this morning. I have the greatest respect for my friend, Sir Abdur Rahim, and I do not cast the slightest doubt on his sincerity, patriotism or public service and I hope one may confidently expect that a gentleman of his eminent position in public life would concede even to his opponents that same sincerity of purpose which we all recognise in him. I would respectfully tell him, Sir, that in this matter of procedure, at any rate, my Honourable friend is under a very serious misapprehension. As one who has taken part in the Ottawa discussions right from their very inception, let me assure my Honourable friend that the procedure followed in the discussions between the representatives of the British Government and the representatives of the Government of India was exactly the same as was followed between the representatives of the British Government and any other Dominions. My Honourable friend quoted a passage from the speech of Mr. Stanley Baldwin in support of his own contention. I am afraid, my Honourable friend has entirely misunderstood the purport of that passage.

Sir Abdur Rahim: It is plain English.

Mr. R. K. Shanmukham Chetty: What exactly happened with regard to the negotiations between the British Government and the Government of India was this. The Delegates of the Government of India met the Ottawa Committee of the British Cabinet in London during the second week of May and it was on that occasion that the speech to which my Honourable friend has alluded was made by Mr. Stanley Baldwin. Soon after the formal meeting with a special Committee of the British Cabinet, the British Government handed over to us as the representatives of the Government of India a schedule containing the list of commodities on which Great Britain would like to have a preferential treatment in the Indian market. Similar schedules were handed over to representatives of Dominion Governments. It is no doubt true that in the case of certain Dominions discussions had started at an earlier stage than when the discussion started with the Government of India, but that does not mean that there was any difference in the procedure between the British Government and the Government of India and that between the British Government and the Dominion Governments. In fact, even certain Dominion Governments like that of South Africa and Southern Rhodesia followed exactly the identical procedure that we of the Indian Delegation followed in London and it was later on recognised on all quarters that the concentration of discussion directly between the representatives of the various Governments at London was more conducive to expediting

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business than the discussion carried on by correspondence between certain Dominions and the British Government. Sir, I can assure my Honourable friend that in this matter there was not the slightest difference between the procedure followed between the British Government and the Government of India on the one hand and the British Government and the Dominion Governments on the other.

Sardar Sant Singh (West Punjab: Sikh): May I ask my Honourable friend at this stage whether the Dominion representatives consulted their commercial interests before going to London or not?

Mr. R. K. Shanmukham Chetty: Sir, my Honourable friend again stated that the Government of India were not free agents. I hope that I am not giving away any of the secrets if I were to tell this House what exactly took place in the negotiations between the Government of India and the British Government. Speaking with all the responsibility that I have and with full first hand knowledge of the entire negotiations, I can state with confidence that not merely were the Government of India free agents in this respect, but that the Delegates of the Government of India in London and Ottawa were, in the freest manner possible, free agents. (Applause.) When the Government of India Delegates got the schedules of the British Government, they began to examine them and, let me assure my Honourable friends in this House, that in every one of the proposals that were finally made by the Government of India Delegates, the proposals were initiated by the Delegates of the Government of India and accepted by the Government of India. I must acknowledge, Sir, the fullest liberty that the Government of India gave to their Delegates in this respect and I would be failing in my duty if I did not take an early opportunity of paying my tribute to the work especially of one in the Delegation to whose honesty of purpose the success of the Government of India Delegation was ultimately due. I mean the efforts of Sir George Rainy. (Applause.) Sir, while Sir George Rainy was a Member of the Government of India, we all recognised that he was one actuated by the highest motives and honesty of purpose. And after observing at close quarters the magnificent work that Sir George Rainy rendered for the cause of India for three months in London and Ottawa, I can say with the utmost confidence that, if there is one person about whose honesty of purpose I cannot have the slightest doubt, it is Sir George Rainy. I go further and say, that if Sir George Rainy were sent as a plenipotentiary of the Government of India to negotiate a commercial treaty with any country in the world, I would blind-folded sign that Agreement if Sir George Rainy were satisfied that the Agreement was justified. (Loud Applause.) Sir, as I observed the magnificent services that Sir George Rainy rendered to India during those three months I felt within myself that India could better be served by men with honesty of purpose combined with wisdom and knowledge than by men with blind patriotism combined with ignorance and prejudice.

Sir, in the short time at my disposal, I would refer only to one particular matter arising out of the report, a matter on which doubts have been cast by the Minority Report. I have always felt that if there is one part of the Agreement more than another about which there cannot be the slightest doubt that it is in the interest of India, it is the Supplementary Trade Agreement regarding iron and steel. And I was

rather surprised to find that even with regard to this Supplementary Agreement the Minority Members of the Special Committee were not prepared to concede that it was in the interest of India. They observe:

"We feel that the Legislature and the country will not feel happy over the fact that the Tata's have to send their sheet bars to Britain for the manufacture of galvanised sheets to be placed in the Indian market by their agents and the profits to be shared between the British manufacturers and Tata's."

I will attempt to explain very briefly the implications of this Supplementary Trade Agreement regarding iron and steel. This House has recognised now for some time that the Indian iron and steel industry is a great national asset and that it ought to be protected, and this House has amply protected this great national industry. At a very early stage in our deliberations in London, we found that negotiations were proceeding between the iron and steel manufacturers of the various countries in the British Empire with a view to arriving at some common scheme of industrial co-operation; and we found that in this matter at any rate we could conclude a bargain which will be distinctly to the advantage of the Indian iron and steel industry. But the scope of such an Agreement was necessarily very restricted. The Indian iron and steel industry is one of our great protected industries, and, in accordance with the principle that we kept before our minds during the whole course of discussions at London and Ottawa, we could not do anything which will detrimentally affect that scheme of protection. But we found that in the case of galvanised sheets, at any rate, there was scope for getting very effective help for the Indian iron and steel industry.

The position with regard to the Indian iron and steel industry is briefly this. When the Tariff Board recommended their scheme of protection, the Tariff Board calculated that the Tata Iron and Steel Company would be in a position to manufacture about 600,000 tons of iron and steel. In their calculation the Tariff Board took into account the fact that the Railway Administration in India would be in a position to place orders with Tata's for 200,000 tons of rails. The House knows that, as a result of the financial stringency, the Railway Board failed to place this expected order for 200,000 tons of rails with Tata's. The result has been that though the maximum capacity of Tata's to produce iron and steel is in the neighbourhood of 600,000 tons, they are today actually producing only about 400,000 tons; and it was this fall in the production which was not due to any causes for which Tata's are responsible that necessitated the grant of additional protection from time to time by this House. Now, we wanted to examine the question whether it would not be possible to open fresh outlets for increasing the production of Tata Iron and Steel Works, and we found that in the case of galvanised sheet there was scope for rendering such a help to the Tata Company.

The position about galvanised sheet is roughly this. In the year 1981-82, the consumption of galvanised sheet in India was approximately 113,000 tons. Of these, about 29,000 tons were made by Tata's and 84,000 tons were imported from abroad. We were told that, as a result of the extension of the galvanised plant, the Tata Company would be in a position to increase their output of galvanised sheet within the next few months to the extent of about 45,000 tons. We were further told that though the Tata Company had on hand schemes for installing two further units for converting sheet bar into galvanised sheets, it will be some time before these units came into effective operation.

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Now, it was under those circumstances, that we concluded the Supplementary Trade Agreement. What does that Agreement provide? That Agreement provides that the duty on galvanised sheets imported from abroad will be Rs. 83-12-0 as it is at present; the duty on galvanised sheet imported from the United Kingdom will be Rs. 53; and the duty on galvanised sheets made from Indian sheet bars and sent from the United Kingdom will be Rs. 30. In addition to this Trade Agreement that was made between the Government of India and the British Government, further business agreements have been made between the Tata Iron and Steel Company and the British manufacturers of iron and steel. Now, under this Agreement between the manufacturers of both countries, it is arranged that the Tata Company will send to England about 80,000 tons of sheet bars for conversion into galvanised sheets, and that these finished galvanised sheets will be sent back to India at the lower rate of duty, that is, Rs. 30 per ton. In addition, the Indian iron and steel manufacturers have been assured of a certain market for the Indian pig iron in the United Kingdom market. Sir, this arrangement will enable the Tata Iron and Steel Company to manufacture an additional 80,000 tons of sheet bar; in other words, they will be enabled, as a result of this Agreement, to increase their production of iron and steel from 400,000 tons to about 480,000 tons. And we naturally thought that to enable the Indian manufacturer to increase the production by about 80,000 tons would result not merely in a substantial profit to the Indian steel manufacturer, but that it would result in the lowering of the cost of production of all the 480,000 tons. Specially the arrangement with regard to the marketing of the Indian pig-iron in the United Kingdom market is a very valuable feature of the Agreement. The blast furnace capacity in India is very considerable and we have depended on the Japanese market all these years, and that market we have lost. And this opening that has now been obtained in the United Kingdom market for a minimum of 70,000 tons of basic iron is one which will further help the Tata Company to reduce the cost of production. And, in these circumstances, Sir, we thought that this will not merely result in an immediate profit to the iron and steel manufacturer in India, but that when the next Statutory Inquiry comes, the total cost of production of the Tata Iron and Steel Works would be considerably lower than what it is at present.

It is these considerations that led us to conclude this Supplementary Trade Agreement; and let me once again remind Honourable Members that, so far as this part of the Trade Agreement is concerned, it is to remain in force only till the 31st March, 1984, when the Statutory Inquiry with regard to iron and steel will take place, after which we would be entirely at liberty to do what we consider to be the best in the interests of the country. I hope this explanation would enable Honourable Members to appreciate the true implications of this Supplementary Trade Agreement.

The time at my disposal would not permit me to touch on any other points. On the last occasion, I ventured to observe that when this Trade Agreement comes to be examined in the pure light of reason, it would be found to be of some advantage to the primary producers of this country and I cannot make any secret of the fact that I am greatly elated at the fact that, as a result of a closer scrutiny of this Trade Agreement, a number of my colleagues on the Special Committee were convinced that this Agreement is really in the best interests of the country.

I do not in the least deny the contention of my Honourable friend, Sir Abdur Rahim, that he has got the country behind him in the opposition to this Agreement. I know that the great volume of opinion outside this House is with my Honourable friend, Sir Abdur Rahim; but I am also confident that if that great volume of opinion outside this House had an opportunity to examine this Agreement with the same amount of care with which my colleagues on the Special Committee examined it, they also would be converted in time to the view that I hold that this Agreement would be in the interests of India. But even if the majority outside this House were against this Trade Agreement, I would take consolation in the fact that on certain occasions at any rate one must choose between two alternatives, honesty and popularity; and in this I had not the slightest doubt in my mind what is the alternative that I ought to choose, and I am glad that in this I was able to carry a great many of my colleagues with me. And I would still feel the satisfaction that he is a slave who will not dare to be in the right with two or three. In this matter I feel a sense of satisfaction that I am in the right with at least some of my colleagues in this House who ought to know the full implications of this Agreement and that satisfaction I would continue to feel whatever may be the volume of opinion outside this House. (Cheers.)

Mr. M. Maswood Ahmad (Patna and Chota Nagpur *cum* Orissa: Muhammadan): Sir, I hope you will allow me to deal with the subject on items as well, because I did not open my mouth on the previous occasion, because I was not in sound health.

I hope you remember that I put several questions on the floor of the House on this subject of the Ottawa Agreement and the Honourable Member in charge replied that it was very difficult to collect all those figures and refused to reply in detail to those questions. I say that if to collect the figures and place them before the House was so difficult for Government, how was it, or is it possible for us Members on this side of the House to collect those figures from the Sea-borne trade and other reports. Apart from this, in the Supplementary Question I drew attention to some figures which I wanted and which it was not possible to collect from the books in the Library, and my Honourable friend, the Commerce Member, asked me to send him a letter about particular articles in which I would have been interested and then he would be ready to reply and to collect figures on these particular points for those particular articles. Sir, I thank him for that, but I was not interested in one particular item only; rather I was keen to know the figures for all the articles taken as a whole and I wanted to know the figures of all the commodities and all the subjects which were under the Trade Agreement. Sir, all my attempts failed and Government did not inform us what we wanted. They concealed the facts and figures from us. Further you are aware that even in the Committee stage the Members of the Committee were not in a position to get figures for all these commodities. They have examined only the export side and they could not examine the import side. May I ask, Sir, how far it is just to ask for our verdict without placing full facts before us?

Coming to the point I will say that we should examine these things on three lines. Three questions arise out of it, the first is, whether we can compete in the matter of the articles with the other countries in the United Kingdom by getting the preference? The second question is, whether by contraction of market we can get just prices for our goods.

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or not? The third question is, whether countries in the United Kingdom can consume all the articles produced by India and by other countries in the United Kingdom?

If you will see the Schedule, you will find, first of all comes the wheat question. In this connection it is very clear that we have imposed taxes in the shape of protection duty on Australian wheat which was imported into India and was cheaper than Indian wheat. Now, I ask, Sir, when Indian wheat cannot compete with the Australian wheat in India, how is it possible that we can compete with Australian wheat in the United Kingdom? In tea, Ceylon will be our competitor. The same case is for other commodities. Then, dealing with the third point I will deal with oilseeds, hides and skins. You will find that the United Kingdom cannot consume the whole quantity. I will say about oilseeds that ground-nut supplied to the United Kingdom is only 10 per cent.—linseed 12 per cent.—castor seed 12 per cent.—rape seed 26 per cent.—and others 26 per cent. Whereas the quantity of these articles that we supply to the other countries is as follows: ground-nuts 88 per cent., linseed 88 per cent., castor 88 per cent., rape seed 74 per cent. and others 74 per cent. This is the condition of the oilseeds.

Then comes the question of hides and skins. In this connection I want to read a passage from the letter which I have received from the Muslim Chamber of Commerce, Calcutta, sent by Mr. Nauman, B.A., the premier exporter of hides and skins, because some of my Muslim friends are doubtful about this hides and skins question. So I want to place it before them. They say:

"Strangely enough, these are the very commodities which, though included in one form or other in the category of preferences, will suffer the most if the Agreement is carried out as their export to foreign country is on such a large scale that in comparison to it the export to the United Kingdom is a nonentity."

Here I will add that countries in the United Kingdom *cum* India produce more hides and skins than is needed. Further, they say:

"It is an open secret that the position of the hides and skins merchants is far from happy as they have been experiencing for the last three years continued depression in their trade. The only source of consolation for them consists in whatever exports they can make in raw hides and skins to Germany who is by far the largest buyer. If over and above the 5 per cent. export duty which is already a serious stumbling block in their way, a further handicap in preferences is imposed, there is great danger that even this last ray of hope may become extinct to them, as Germany's attitude towards India is bound to be biased and in consequence any action on her part to counteract the preferences will systematically put an end to the importation of Indian raw hides, etc., into Germany."

That is the question of hides and skins. The second point is also against this Ottawa Agreement, because contraction of market will decrease the competing buyers and the United Kingdom will dictate the price suitable to them.

Similarly if you will examine—and my other friends have said it—by the preferences which have been given to India, India is not going to gain anything. The preferences are given to such commodities for which India either has got a sort of monopoly or has no chance to compete with other countries in the United Kingdom.

My Honourable friend, Dr. Ziauddin Ahmad, has solved the question of the mathematical problem that the balance of trade of the whole

world is always zero. (Laughter.) But, Sir, mathematical problems cannot solve the practical questions. If you will permit me, Sir, I will relate a story which I remember. A marriage party was going to a certain place and there was a river in the way and when they came there, the father of the bridegroom asked his elder son who was an Engineer with a sound knowledge in Mathematics whether it was possible to cross the river or not. The boy sent a man to measure the depth of water and the man measured it and said that the depth of water was one foot at one place and two feet at another place, and again at one place it was 25 ft. and in another place it was 30 ft. while in the end it was 1½ ft. and in the very end six inches. The total length of the river was 20 ft. The mathematician son then began to calculate and came to the conclusion that the average depth of water in the river was about three feet, and then divided the average depth of water on the number of the men in the party and said that the average depth of water per head came to less than one inch and advised the marriage party that there was no harm for the whole party crossing the river. (Laughter.) I do not want to narrate the result and leave the mystery for the decision of the House. So these mathematical calculations are not useful in practical life, and, if this House were to accept the mathematical results deduced by my friend, Dr. Ziauddin Ahmad, the same results which attended the marriage party would follow in this case. I can conscientiously say that this Agreement is injurious to this country. There is no doubt about it. We are not going to gain anything from this Agreement.

Sir, at the same time I will say that it is not our duty only to make speeches here or to point out that this thing is bad or that thing is not bad. Our duty is to suggest practical methods to Government. If we cannot reject an injurious measure, then what is our duty?

An Honourable Member: To resign.

Mr. M. Maswood Ahmad: Our duty is to decrease the injuries, to minimise the harmful effects of the measure. It is quite clear that we are in a minority. Government have an overwhelming majority. There are 40 Nominated Members, there are 10 Members of the European Group, and there is another United Party which has come into existence, and so on. There is no doubt we are in a minority, but merely saying that this measure is injurious and that we should reject it is not sufficient for us. When we cannot reject any measure, then what is our duty? Our duty is to try to decrease the injurious effect of the measure. Even if no body from amongst the Opposition goes to the Select Committee, Government is sure to pass this Resolution, and the Bill will be sent to a Select Committee composed of the habitual supporters of the Government. I, therefore, appeal to the Leader of my Party and to the other Members of my Party as well who think that this Agreement is injurious that they should go to the Committee and decrease the injurious effects of the Bill.

Now, Sir, there are three ways to give preference. I want to deal with this question, because I am not aware who will be in the Committee, and to enlighten the House I will suggest only one thing. There are three kinds of giving preference. We can give preference either by increasing the rate for other countries or by decreasing the rate on British goods, or something by decreasing and something by increasing. In my

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opinion, if the Treasury Benches are bent upon giving preference to British goods, then the only course is to decrease the taxes on British goods and not to increase the taxes on foreign goods. In dealing with this question, Sir, I will say that India has been over-taxed now. We, Indians, are poor, and there is no doubt about it. We generally use Japanese and German goods, because they are cheap. So if Government will increase the taxes on foreign goods which we generally purchase, we will have to pay higher prices in future. What we sell is already very cheap and we do not get fair return, while what we are to purchase is too costly. Therefore, I suggest that we should not increase the taxes on foreign goods

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member will please conclude within three minutes more.

Mr. M. Maswood Ahmad: Before closing my speech, I will say this, that if Government are going to increase the taxes on foreign goods, it will be disastrous to India. If they dared to make money by this preference policy, they will be responsible for the result. If the last drop of Indian blood which they have taken in the shape of surcharge imposed by Sir George Schuster is not going to quench the thirst of the Treasury Benches, then we cannot help any more. We cannot bear any more taxation, and if Government are going to give preference to British goods by increasing the taxes on foreign goods, then, I again say, it will be disastrous to India and it will create a revolution in the country.

The Honourable Sir George Schuster (Finance Member): Sir, if I rise today to take part in this debate, it is not because I think that I can contribute very much in the way of argument on the merits of the case in addition to all that has been said and written already, all that has been said in very able speeches in the first debate such as that which was made by my friend, the Deputy President, all that has been said in the very lucid Report prepared by the Special Committee of this Assembly, all that has been said in a series of particularly convincing speeches to which we have listened both yesterday and today, speeches like that made by my friend, the Leader of the Nationalist Party, by Dr. Ziauddin Ahmad, by Mr. Burt, by Bhai Parmanand, by Mr. Mody, and this morning again by my friend, the Deputy President. Sir, I think every man who will sit and study carefully all that has been said on this subject cannot remain unconvinced, cannot retain the earlier prejudices with which this whole matter was viewed. If I speak today, I wish rather to put certain broader aspects of the whole matter before the House, and I wish to speak as one who witnessed the actual negotiations at Ottawa and still retains some very vivid impressions of what happened on that momentous occasion. But before I turn to those wider aspects, there are one or two points with which I feel that I must deal.

In the first place, as regards the financial aspects of this measure, the Honourable Member who has just spoken has very kindly offered us "enlightenment" on that subject. Honourable Members will find what our actual proposals are from the Bill which has been before them for some days. The only point which I wish now to emphasise is this, that the whole of those proposals has been prepared with the express design of producing results which will not appreciably affect the tax revenue of

the country. One has to work on certain estimates and calculations. One has to make estimates of what, if any, the diversion of trade is going to be of imports from foreign countries, to imports from Great Britain, as a result of the preference. Having made those estimates, it is merely a matter of arithmetical calculation to devise a scheme which will produce exactly the same results as regards revenue as the existing schedule of duties. We believe that what we are proposing to the House will have no appreciable effect on the revenue returns, and, therefore, will not have any effect on the prospects of further taxation.

There is another point, a point which was touched on by Mr. Mody in his speech yesterday,—the effect on the consumer. Here, again, we believe that the continued competition, the very keen competition to which the trade of every country is subjected today, that very keen competition will continue between foreign goods and British goods, so that if British goods get the advantage of a ten per cent. preference over foreign goods, and if that advantage is translated into terms of duty by giving the British goods a five per cent. lower duty than they have at present and putting on foreign goods a five per cent. higher duty than they bear at present, we believe that the competition will tend to reduce the prices at which foreign goods are sold to the level of the British goods, and that in the long run the tendency will be that the consumer will benefit from these changes. That, I admit, is a matter which must be carefully watched in the future, but that at present is our confident belief.

Then, Sir, among other points which seem to be exercising the minds of some of my Honourable friends opposite, there is that point of possible retaliatory measures, and I believe that some of my Honourable friends, particularly from the Punjab, have a fear lest, as an indirect result of this whole measure, countries like Japan may take retaliatory measures against Indian cotton, and that, therefore, much wider damage may be done than the benefit which could possibly accrue from the preferences under this Agreement. I think that if any Honourable Member has fears about cotton, he should realise that the occasion on which those fears ought to have been expressed was a few months ago when at the urgent request of the Indian manufacturers the import duty on Japanese piece-goods was increased to 50 per cent. That was a discriminatory measure of far more intensity than anything which is contemplated in this Agreement. That was an occasion on which those fears might have arisen and been expressed. But what is the result of that measure? Do we see any falling off in the demand for Indian cotton? No. There has been no falling off in the demand for Indian cotton, neither in the Japanese purchases of Indian cotton nor in the purchases of any other country. Indian cotton continues to hold its place today, both as regards the quantities that are sold and as regards the price at which they are sold. Indian cotton still commands a price which, if anything, is above the normal parity. While I am speaking on this subject, I should like to say this. There is, I believe, no big exporter of primary agricultural products in the world today which is in such a favourable position as India is as regards the exports of Indian cotton. We have no stocks piling up. The statistical position is and has been for the last two years increasingly strong. That, Sir, is, I think, a point which should impress Honourable Members who feel any fears on that particular matter.

Then, Sir, there is one other special point on which I had intended to say something, and that relates to the charge which is frequently made

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and has been made in very emphatic terms by my Honourable and learned friend, Sir Abdur Rahim, today, that the Indian Delegation were not free agents in this matter. Sir, that charge has been answered

Sir Abdur Rahim: May I say a word by way of personal explanation? I did not say that the Delegates were not free agents; I said that the Government of India were not free agents.

The Honourable Sir George Schuster: I accept my Honourable and learned friend's explanation and I am quite prepared to deal with that point as well as with the actual words that I used. The charge which my Honourable and learned friend made was answered in much more eloquent language than I can aspire to, by my Honourable friend, the Deputy President. My task now, therefore, is not to make any original contribution on this matter, but simply to endorse what he said. I myself was not a member of the Delegation so far as tariffs were concerned, but I came into their discussions rather as a spectator when we met together on the steamer crossing the Atlantic to Canada. I can tell my Honourable friends that at that time when we discussed the matter on the ship, no decision of any kind had been taken; all the decisions, all the plans as to what we should do at Ottawa were completed on the ship. My Honourable friends were completely free agents. They discussed the matter with every sort of possible variation as to what could be done, with complete freedom on the ship, and the only authority to which they had to refer their proposals, as they finally produced them, were the Government of India. The Government of India—and here I can perhaps speak with greater authority than my Honourable friend, the Deputy President,—the Government of India were throughout, both as regards the proposals and as regards the selection of the delegates, given an entirely free hand. The Secretary of State absolutely respected the fiscal autonomy convention. We operated with complete freedom, and for any results that have been achieved the Government of India must bear the full and sole responsibility.

In this connection I would like to refer to what was done by Lord Curzon's Government in this matter. That has been a frequent subject of discussion in this debate; and a frequent charge that has been made against our present proposals is that we have departed from the principles which were laid down thirty years ago by Lord Curzon's Government. I would like to say with reference to that in the first place that conditions are now entirely different. The position as regards Indian tariffs is entirely different to what it was in Lord Curzon's days, but a much greater difference still is, of course, the policy of the British Government. Again, a third difference is the condition of the world today. We have to carry on trade in conditions today for which there has been no parallel in the history of the world, and it becomes more and more necessary for every country that wishes to maintain its place to design a deliberate plan for its economic policy. It cannot maintain its position merely by sitting idle and following the old-established principles of free trade. Those days are gone and many of us who are free traders at heart profoundly regret it. But we have to face the facts. That, however, is not the point that I really wished to make in this connection. I wished to call the attention of the House to what really were Lord Curzon's feelings on this matter.

There is on record a very interesting speech made by Lord Curzon in the House of Lords on May 21st, 1908. In that speech he explained the motives which prompted that famous Despatch of 1903, and these were his words:

"May I confess that our real apprehensions when drawing up the Despatch about the fiscal future of India were not so much economic as political? We said to ourselves what guarantee should we have if any new system were proposed, that India would have free speech in the discussion of the subject, or a free judgment in its decision? . . . (We had no objection in principle to a system of preferential tariffs, and he ended his speech thus.) If we could understand that in any Imperial Conference which takes place the interests of India would be fairly considered; if a pledge could be given that no system will be forced on her in deference to pressure from England, or from any part of England, which is not suited to her own interests, or that she will not be called upon to accept any system devised exclusively in the interests of England, and that in the event of no such solution being found practicable, she will be left in the enjoyment of the degree of fiscal liberty which she now enjoys, then I believe that India, so far as I have any right to speak on her behalf, would gladly join in any such Conference as I have spoken of, and that she would welcome any practical scheme of fiscal reform embracing preferential tariffs within the Empire, because she is already in favour of the main principles which underlie that reform, and because in the respects to which I have referred she has already put into practical operation some of the most effective means of carrying those principles into effect."

Now, Sir, I maintain that those political conditions which Lord Curzon laid down have now been fulfilled, and there can be no doubt in the mind of any one who has had any part in these negotiations and discussions that India, so far as she is represented now by the present Government, had an absolutely free hand in this matter, and that the Government, in fulfilling their responsibility in that connection, were actuated by one motive and one motive only and that was the best interests of India. And, Sir, this Government, going beyond what has been done by any Government in any of the Dominions, have afforded this House an opportunity for examining the whole proposals which, I say, is not paralleled in the case of any other part of the Empire. As a result of that examination, an overwhelming majority of the representatives chosen by this House to examine the matter have come to the considered conclusion that this Agreement is in the interests of India.

Now, Sir, I wish to turn from that to what I have always felt to be the real issue in this matter. And that is an issue of which we have heard surprisingly little. I believe that on its merits this Agreement is in the interests of India and, I believe, that those who are prepared to listen to reason and to let that influence their mind must have been convinced by the speeches which have been made, and by the report of the Committee that that is the case. But that is not what I have in mind as the real issue. The importance of any advantage which India can get out of this Agreement pales into insignificance in comparison with the importance of what is the real issue in this matter. The real issue in the matter is this—is India to join the economic group of the British Commonwealth of Nations or is India to cut herself adrift and stand alone for all time. That, Sir, is the real issue and I do not believe that there is any Honourable Member in this House who, if he himself sat here and had to carry on his shoulders the responsibility of answering that question, could possibly answer it in any other way than that in which we and our delegates have done. (Applause.) Sir, I fully concede to my Honourable friend, Sir Abdur Rahim, complete honesty in the line which he has taken; but I would put this to him. It is a very easy

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line to take. He himself has told us that we are assured of a majority over this measure. He, therefore, has accepted the position that it is bound to go through. That being so, nothing which he says is likely to influence the actual result. He is not standing out in the cold liable to be blown upon by the tempest that would arise if we rejected this Agreement and, if India had to stand alone in the world. He has not got to face that alternative. He can adopt the easy course of pointing to details in the Agreement where he thinks India has not got quite all that she ought to get or to other points where the results are uncertain. That, Sir, is a very easy task, but I put it to him if he had to choose now if India shall join this new movement for economic co-operation within the Empire or if she should take the terrible risk of standing on her own and rejecting the proffered hand, would he dare to take that risk? I believe, Sir, that he would not, and as I have sat through this debate or as I read the four days discussion which preceded it, I have asked myself what would Honourable Members have said and what would the public of India have said if we, who carry the responsibility of Government today, had declined to take part in this Ottawa Conference and if we had not been able, through the great ability of our delegates, to produce to them an Agreement which offers India a profitable entry into the British Commonwealth of Nations and to the British economic group. They would have said that we had been guilty of the gravest possible dereliction of duty. And they would have been right.

Now, Sir, I wish to say something on the value of Indian co-operation in this British economic group. I wish to explain to the House why I myself, and my colleagues, attach such tremendous importance to India's entry into this group. Since I last spoke in this House, I have had the opportunity of going over a great part of the world and talking at first hand with those who are responsible for the finances of a great part of the world today. I have seen conditions in Canada, and in the United States. I have talked with those who are responsible for the finances of Australia, New Zealand, South Africa and most of the European countries. I do not believe there are many Members in this House nor of the public in India who have the least appreciation of what are the conditions in the world today, of what terrible dangers hang over every country, of the instability which exists everywhere, of the threats which are menacing the existence not merely of Governments but of the whole social and economic order on which the world has built up its present position. Now, Sir, amidst all these dangers, amid the tremors which may presage a violent earthquake, I believe that there is only one solid bit of ground in the world today and that is the ground of those territories which are working together within the British group. I believe the only sure foundation for the continuance of trade and the whole economy of the world, as we have known it, the only sure foundation in the world today is British credit, British honesty and British commercial integrity. Some people would pin their faith on gold regarding gold as the ultimately secure form of investment. But what is the use of gold in the world if gold, as a basis of currency, is no longer of any value, and how can it function as a basis of currency unless the world continues on the established economic principles? If those go, then gold becomes completely valueless. You cannot eat it; and the amount that will be required for jewellery and the arts is of negligible importance. Indeed no

one would require that in the conditions which would then arise. But, on the basis of British honesty and British commercial integrity, we have something to lean upon. And it is a very remarkable fact that, since the British Government decided to unlink their currency from gold, sterling has become the reliable standard of value in the world. It is sterling which is stable, and it is gold which is soaring about in the heights, unrelated to any reasonable value for commodities. Sir, I have no time to enlarge on that point, but I commend it to the serious attention of my Honourable friends. If there are any who seek for some practical indication of what membership of the British Group means today, I would like to put before the House one fact. It is merely illustrative, but I think it is very significant. If we turn back to 1929, that is to say, to the beginning of the present crisis, and compare the credit of India with, let us say, the credit of Japan—a country which has always been quoted to us as one which manages its affairs extremely well in the national interests—we find that in 1929 the credit of Japan stood very nearly on the same level as the credit of India. What is the position today? I have looked up the latest London papers which we have—the papers of the 17th November—and I find that Japanese 6 per cent. sterling Bonds in London stand at about 68, Japanese 5 per cent. Bonds at about 58, Japanese 6½ per cent. dollar Bonds in New York at 63. The yield is thus very nearly on a 10 per cent. basis. But India's 3½ per cent. securities stood on the date to which I am referring at about 85; that is to say, our 3½ per cent. securities in London stood at about 17 points higher than Japanese 6 per cent. securities. Now, I think that is a very good indication of what being a member of the British Group means today, and I again venture to commend that also to the serious consideration of my Honourable friends.

Sir, the time is short and I do not wish to detain the House, but before I close I should like to add two other points as regards the reasons why I feel it so important that India should continue to remain a member of the British Group. It is not merely in India's direct material interests that it is so necessary. It is because I feel that India, being a part of that Group, will add to the strength of that Group; and in the strength of the British Group lies really the surest hope of some recovery from the present evils from which the world is suffering. There was a striking passage in a speech made by Mr. Neville Chamberlain, to which I listened the other day in Parliament in London, when he opened the debate on the Ottawa Agreement. He there called the attention of the House to the fact that all nations today were inter-connected, and that no nation could go down into the morass of economic depression without depressing the fortunes of its neighbours. But he went on from that to say, conversely, that if any group can pull itself out of the morass and get on to surer ground, then it can help the other nations of the world; and he said that if the British Group, as a result of this Agreement, can move towards security and prosperity, then it could lend a helping hand to other nations, and that is going to be the brightest hope for getting away from our present troubles. Sir, I believe that to be very true, for, if there is one group which has shown a broad view of the international position and has shown a desire to help the world to recover its prosperity, it is the British Group; and by joining the British Group, by strengthening the hands of the British Group, India will be contributing to the chances of recovery of the world.

[Sir George Schuster.]

There is another aspect of the same idea, a rather more personal one that I wish to put before the House. Sir, it was my good fortune to be present at Ottawa. As I have already said, I was not a member of the Tariff Delegation. I was interested merely in the question of currency and monetary reform; and, therefore, if I say anything now in praise of the Indian Delegation, it is not of myself that I am speaking, for I am not included. Sir, I think one of the most vivid impressions which I have retained from my visit to Ottawa is that of the brilliant success achieved by the Indian Delegation (Loud Applause); and in witnessing that, I felt that I saw a new vision of the future—Sir, it was admitted on all hands that Sir Atul Chatterjee, the Leader of the Indian Delegation, stood out from all the Leaders of the other Delegations for his ability in the conduct of affairs. (Loud Applause.) I will spare the blushes of my Honourable friend, the Deputy President, and the other members of the Delegation and will not expressly extend that compliment at this moment to them. But, Sir, the work of the Indian Delegation conjured up in my mind the vision of Imperial Conferences in the future; and it was brought home to me, in a way which I have never realised before, of what enormous value the contribution of representatives like those which India sent to Ottawa would be to the deliberations of the Empire in the future. (Loud Applause.) India is able to supply men with long traditions behind them, men who will bring a new outlook to bear on the whole question, and I am convinced that India's part in the deliberations of the future will not only be of enormous advantage to herself but to the Empire as a whole. (Hear, hear.) Sir, in Ottawa I think I may say that we worked together in a spirit of comradeship which it is perhaps difficult to preserve amid the political controversies that surround us here. I think we felt on our side an enormous admiration for our Indian colleagues. It was a pleasure and pride to us, to Sir George Rainy and to myself, to serve under an Indian Leader like Sir Atul Chatterjee, and I hope our Indian colleagues on their side felt equal pleasure in working with us. The Deputy President has already paid a tribute to Sir George Rainy and I was very glad to hear him do it. That was a splendid illustration of the idea which is in my own mind. I think if Honourable Members would cease looking for points of criticism in the details of this Agreement, if they would try to realise that what happened at Ottawa was something which has enormously enhanced the prestige of India, which has firmly established a place for India—and I would say an *independent* place for India—in the future discussions of the representatives of the British Commonwealth of Nations. I think if they would take that attitude, then they would approach this Agreement in a quite different spirit to that which we have had illustrated in some of the speeches which have been made today. Sir, I would appeal to those who may still be in doubts as to which way they should cast their votes—I would appeal to them to appreciate the broader aspects of this question. I would appeal to them not to destroy the spirit of the work which was done by their Delegates at Ottawa; not to destroy the spirit of Imperial co-operation which has been given such a strong start at Ottawa; and I would say to them: Respond to that in a generous way: let us have no meagre majority; let us have as big a majority as we can get to convince the world that India is ready to take her part in the British Commonwealth of Nations and to reciprocate the appreciation which on the British side is given to her. (Applause.)

Mr. Muhammad Yamin Khan (Agra Division: Muhammadan Rural):

Sir, I am not a commercial man and I know nothing about the commercial intricacies which can follow by this Agreement, but I wish to express my view only as a layman and as a producer.

I sat in the Committee and if I had not done so I would be the last person to stand up and make a speech in the House today. But when I sat there and listened to the evidence which came before the Committee, I confess that I was not impressed at all by the evidence of those gentlemen who seem to have created such a good impression on the mind of my Honourable friend, Sir Abdur Rahim. I thought that they were talking just like a student who has read only in the books and had no practical experience of the world or of the commerce which we wanted to listen. Sir, I will confine myself to a very few remarks and I do not wish to go into the details which have been dealt with very ably by other Honourable Members. My remarks will be confined to the agricultural produce. India, Sir, has got a big population. About 80 per cent. of the people live in the villages and entirely depend upon the agricultural produce. The interest of this 80 per cent. of the population is really the interest of India. It cannot be said that about 15 per cent. population which is living in the cities can override the 80 per cent. population which is living from hand to mouth.

Now, Sir, the advantage which I can see by this Ottawa Agreement is the giving of preference to the Indian producer by raising the level of prices in England and thereby raising the price in the world. All the benefit that will accrue from this Agreement will go into the pockets of the people who are engaged either as farmers themselves or as field labourers. That is bound to raise the prices, because all this benefit will go into their pockets. Now, whatever the disadvantage there may be it is not going to affect the agricultural producer in any way. No Honourable Member has been able to convince me, nor the witnesses who appeared before the Committee could convince them that the benefit was not going to accrue from the exports which we were going to have. The exports, so far as the Agreement is concerned, are going to bring the benefit to the teeming millions of India and this factor will redeem a bit the position of the starving millions of India in the matter of their daily requirements.

My Honourable friend, Mr. Sadiq Hasan, said yesterday that the cotton of the Punjab was going to be adversely affected, because Japan was going to retaliate. I cannot understand his theory. To my mind, he could not convince the House at all that Japan was going to retaliate in any way. Japan can purchase this class of cotton only from India. There is no other competitor of this class of cotton in the world. So, if Japan wishes to retaliate, then there can be two kinds of retaliation. One is that she will refuse to purchase any cotton from India. If they were to do so, it would mean the closing up of all their factories which are manufacturing cotton goods. This, I am sure, Japan can never afford to do. If Japan does not wish to close her mills, then she must purchase cotton from India. The other way to retaliate can be that they may not be willing to purchase our cotton at this price. If they do not purchase at this price and the producer says that he is not going to sell at a lower price, naturally they will come to some agreement, because one is anxious to sell and the other is anxious to buy and the level of the price can never go down. So I cannot understand how Japan can retaliate.

[Mr. Muhammad Yamin Khan.]

Another remark was made by my Honourable friend, Raja Bahadur Krishnamachariar, yesterday and he read out a passage from the Report of the Committee about wheat. He said that he did not know how the wheat was going to be affected and this morning a similar remark was made by Mr. Maswood Ahmad. He said when Indian wheat could not compete with Australian wheat in India, how could it compete in the United Kingdom? I think these remarks were made, because the Honourable Members do not know the real position. I am afraid they have not properly studied this problem or the figures. If they had gone through the figures which were supplied to the Members of the Committee, they would have been convinced by them at the very first glance. I had my own doubts and I still have certain doubts, but I think the position has been made very clear to me as far as wheat goes. My Honourable friend, Mr. Maswood Ahmad, also made a few remarks to the effect that Indian wheat could not compete with the Australian wheat even in India itself. Well, Sir, that is a position which he has taken up without giving even a moment's thought. Australian wheat was, as far as I know, never sold in Delhi or in the centre of India, and the Australian wheat can never compete with the Indian wheat in the central parts of India. Australian wheat was imported at Bombay and Calcutta and the Indian wheat could not compete with it there, because of the railway freight which is very high. I came to know from some of my friends who wanted to purchase Indian wheat and the Punjab wheat in Calcutta. They purchased it at Karachi instead of at Lyallpur. It costs them much less to take the Punjab wheat from Lyallpur to Karachi and then ship it to Calcutta than to take it by rail from Lyallpur to Calcutta. That is the real

difficulty in the way of the producer of wheat in the Punjab and the United Provinces. We can now see the prices. In 1927, the price of wheat which was imported into the United Kingdom from India was £12/7 per ton; in 1928, it was £12/2 per ton. Then, in 1929, it came down to £11/1 per ton. Then came up the crops of 1930. In 1930, India produced about two million tons as surplus wheat than was the average production of the past years. So did Canada and so did Australia. These three countries produced about six million tons more than their average production and that brought down the prices to a great extent, because the purchasers were very few. And at once we find that in 1930 the price instead of 12/2 or 11/1 came down to 8/3 per ton. In 1930, this could not be sold and the surplus produce was collected in all the countries. The effect was that in 1931 the prices went down to 5/5. From 12/7 it came down to 5/5. This brought ruin on the agriculturists in India, because wheat is the real standard of value in India and everything is sold in India according to the relative value of wheat. Wheat is the determining factor of the commodities or daily requirements in India. If wheat becomes cheap, ghee is bound to become cheap, maize is bound to become cheap, fodder is bound to become cheap, and the people who cannot sell their produce at a higher rate have got very little money in their pockets to purchase manufactured goods either made in India or imported into India from outside. So the whole economic condition of India depends upon the relative value of wheat. So, in order to make India a rich country, wheat must be sold at a high price.

Now, Sir, I will give one more instance and that will convince my Honourable friends who have got some doubts as I myself had. The

United Kingdom imports about 6½ million tons of wheat every year. Out of this, 2½ million tons come from the Empire countries, that is, Canada, India and Australia. And three million tons of wheat are imported into England every year from foreign countries, that is, United States of America, Argentine and Russia. So more wheat is supplied to England by the foreign countries and our normal production in India is about 8½ million tons. Now, our capacity of growing wheat in 1930 has shown that India can produce 10½ million tons, that is, two million tons over and above our average production. India's capacity to grow two million tons more can be achieved every year if we can find a world market. If we can sell our wheat in the United Kingdom, we can certainly grow two million tons over and above our production at present. This we could supply to the United Kingdom if we could find a favourable market at our cost of production. That cost of production can be affected and we can compete only in two ways. The first is, if the cost of production in other countries rises; secondly, if we can decrease our cost of production; and, thirdly, if there is a duty on the produce of the foreign suppliers. What this Agreement amounts to is that they are going to put about nine shillings and a few pence more over every ton on the import of foreign wheat. This means that the prices at which they have been supplying in England will rise, and if the price of foreign wheat rises, this gives us an opportunity to sell our wheat even cheaper than theirs if we sell it at nine shillings more than we are doing now. This means that we will be still selling at six pence less per ton and getting higher prices in India for wheat.

Leaving this aside, another question which comes up is whether we shall be able to achieve this or not. The only thing we can do is this that at present we have to see the circumstances and we have to afford an opportunity to the producers. We cannot say that this result will be achieved in a day or two or even in a year. An opportunity has to be afforded to the producer and this opportunity is afforded by the present Agreement by raising the level of prices. And, I am sure, that India will not have the prices that prevailed in the last two years. One effect which, I am sure, will be produced on wheat by this Agreement is very important. At Lyallpur, the price of wheat at the crop time, in May or June, was Rs. 1-6-0 per maund, the lowest for very many years, and in the villages it went down to Rs. 1-2-0 per maund. In Meerut, Hapur and Delhi wheat was sold in May and June at 23 seers a rupee whereas we find that at present it is 12 seers a rupee. Where has that money gone to? Has the producer gained anything? Has the consumer gained anything? The producer sold his produce at 23 seers a rupee in the month of June, because they could not afford to keep it lying after June. They must pay the Government revenue. The producer sold it at that time and now the consumer is purchasing it at 12 seers to the rupee, this means that all this money is going into the pocket of the middleman. He is selling for two rupees the same thing which he purchased for one rupee and this was the result, because there was no export of wheat at that time. Nobody from outside was willing to purchase a single maund of wheat in the month of May and June from the Indian producer and that is why this was the result. As soon as this happened, that effect has been achieved. We will ask the Government, later on, that the Government should come for the help of the producer not only by extending the period of the import duty on wheat which they brought about two years ago, but to continue that for several years more; but also by two other

[Mr. Muhammad Yamin Khan.]

methods: one of them will be by reducing the freight for wheat to the port towns of Calcutta, Karachi and Bombay, and another by asking the British Government to put up their demand of purchasing any wheat whatever they require in the month of May and June and not in October or November as they have been doing in the past. As I have not got much time at my disposal I will conclude and I will only say that I have looked into the side for which preference is going to be given on the imports and I find that all those articles which are going to be imported they are not going to affect even a little bit any of the people who are living in the villages. All those commodities are meant for the rich people and, therefore, I do not look to the interests of the rich people as the interests of India: the poor agriculturist's interest is the interest of India and, therefore, I support.

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

The Assembly re-assembled after Lunch at Twenty Minutes Past Two of the Clock, Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

Mr. N. N. Anklesaria (Bombay Northern Division: Non-Muhammadan Rural): Sir, in spite of the very honoured and respected names which I find among the signatories to the Report before this House, I am constrained to say that the Report, in my humble opinion, is a very disappointing document.

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): Hear, hear.

An Honourable Member: Is that so?

Mr. N. N. Anklesaria: In spite of the remarkable speech that the Honourable the Finance Member delivered this morning, I feel convinced that the Report has got nothing to commend itself. ("Hear, hear" from the Nationalist Benches.) I have carefully gone through the whole Report, read it at the top, in the middle, as well as at the end, and I have found nothing in it.

Mr. B. V. Jadhav (Bombay Central Division: Non-Muhammadan Rural): Very good.

Mr. N. N. Anklesaria: In the beginning of the first paragraph, the Committee state that they have made a *thorough* examination of the material which was supplied to them. At the end of the same paragraph, they say that they have not been able to make a full examination of a most material side of the question. Sir, if words have got any meaning, this statement in the Report makes the Report start with a very adverse

presumption against it, and that presumption is confirmed when we proceed to analyse the statements made in the body of the Report. In the middle of the Report, in paragraph 17, the Honourable Members lay down a proposition contained in a quotation from the writings of a Reader in Economics of the Bombay University. They say, they fully agree with the view propounded in that quotation. With all respect, I say, Sir, that in the circumstances of the present discussion the proposition laid down in that quotation is of extremely doubtful validity, for it completely gives the go bye to the fact that there are bargains which are fair and there are bargains which are unfair, there are bargains which are worth having and there are bargains which are worth leaving severely alone. If, in the bargain, England gets one thousand rupees and India gets only one rupee, would any Indian worth the name stand up and say that he will stand by the Agreement? The Committee's investigations have been vitiated by the proposition on which they rely in this quotation as I can show to the House by taking up the statements in the Report *seriatim*. In the circumstances which have been stated, the sole question for the Committee was to find out if a better bargain could possibly have been made with England by our Delegation? And, Sir, there is only one item in which the deliberations of the Committee have deviated in the right direction, and that is about their remarks on the preference to Indian cotton seed. That is the only lacuna they have been able to point out in the recommendations which our Delegation have made in their Report.

Sir, it is said that the Committee have provided safeguards. What are those safeguards? They say they have safeguarded the interests of the consumer. Sir, in paragraph 15 of the Report, they say, as regards the safeguarding of the interests of the consumer, that they think it as impossible to predict generally upon whom the cost of preference will fall. That is not solving the problem of the consumer's interests; that is evading the whole problem. In paragraph 16 of the Report, they talk about safeguarding the interests of the taxpayer, and how do they propose to do it? They have said that they have received assurances from the Honourable the Finance Member that in framing his finance and tariff Bills he would take care to guard the interests of the consumer. But, I ask, was a Committee required to tell us that the Finance Member was going to safeguard the interests of the consumer or the taxpayer. It is then said in the Report that our policy of discriminating protection will in no way be affected by this Agreement. But, I ask, again, was a Committee required to tell us that? The same thing has been stated in the Report of our Delegation

Sir Abdulla-al-Mámūn Suhrawardy (Burdwan and Presidency Divisions: Muhammadan Rural): Why did you vote for the Committee?

Mr. N. N. Anklesaria: I did not vote for it.

An Honourable Member: Yes, you did.

Mr. N. N. Anklesaria: Sir, I would challenge any Member of this Ottawa Committee on the floor of this House to point out one single argument or one single fact which Members of this House could not have found either in the Report of the Delegation or by making inquiries in the Commerce Department or interrogating my Honourable friend, Mr. Rurt, and they would have found the arguments and facts better said and better stated than in the Report of the Committee.

[Mr. N. N. Anklesaria.]

It might be said that the Government are in favour of this motion, and by opposing it you are more pro-Government than the Government themselves. My short answer to that is that if the Government choose to support the motion of my Honourable friend, Sir Hari Singh Gour, it is Government's own concern. I stand here for the principle of consistency, and I stand here against useless fuss and flutterings about nothings. I am, therefore, opposed to this amendment and I support the motion of my Honourable friend, the Commerce Member.

Mr. F. E. James (Madras: European): Mr. President, there are three important features of the Majority Report of the Ottawa Committee to which I wish to draw the attention of the House. The first is that the Report was signed by representatives from every Party in the House, and that itself is an important fact. The second is that its recommendations seek to establish the control of this House over the continuance or otherwise of the Agreement, and I think insufficient attention has been paid to that particular point. As far as I am aware, this is the first time, on a matter of this description in which the Executive has said that it is prepared to accept in advance the verdict of this House. I would remind Members of the House that this Report bears the signatures of two Members of the present Government. In the third place, the Report recommends that there should be a permanent Committee of this Assembly sitting to watch the current of trade in regard to those articles which come under the Agreement. I make no secret of the fact that I was opposed on the Committee to this particular procedure being taken, for various reasons, and I think I am not betraying any confidences that are important when I say that Mr. Ranga Iyer and myself crossed swords on this particular point, and ultimately he won. My objection to this particular form of procedure was that I did not think that a Committee of the House, elected largely on the basis of parties, is the best kind of Committee to watch the course of trade and to appreciate the development of agriculture in regard to this Agreement. What I would have much preferred would have been something far bigger than this. I would have preferred the creation of an Imperial Economic Council for India, which would represent agriculture, trade, commerce and industry, which would devise means for controlling production, organising expansion, co-ordinating state-aid,—which, in other words, would help to plan the economy of the nation. (Mr. Arthur Moore: "Hear, hear.") Although I had to be content with the recommendation made in the Report, I still press upon the consideration of the Government this wider aspect of this very important question.

The Committee came to the conclusion that the Agreement was in the best interests of India, that it would help to retain and help to find a market for the expansion of the exports of India's produce into India's largest and most stable market, the United Kingdom. Those who have had little experience of business underestimate the importance of obtaining a stable and large market. Sir Robert Horne, in the House of Commons, during the Ottawa debate, said that one of the most important things, both from the point of view of the producer and from the point of view of the manufacturer, was to secure a large and stable single market, and that I claim is what the Agreement has done for India. On the other hand, India has given a ten per cent. preference (or 7½ per cent. in certain instances) on a comparatively small list of scheduled articles of import

from the United Kingdom. I say comparatively small list, because the list actually is only 22½ per cent. of the total list of scheduled imports into this country.

There are certain fundamental objections taken to the Agreement which have been mentioned in the Minority Report and with which I wish to deal briefly.

The first is the argument that whereas British imports into India under the terms of the Agreement are not subject to Empire competition, Indian imports into the United Kingdom are, and the conclusion drawn from that statement,—which is not wholly true, though it is true in large substance,—is that the value of the preferences that are offered India must remain more or less uncertain in their incidence and depend upon various factors determining the comparative ability of competing countries to respond to any increased demand. Now, there are three points to be mentioned in regard to that argument. The first is that, while it is true that a larger portion of the imports into the United Kingdom from this country are subject to Empire competition, it is also true that India's greatest competitors in the United Kingdom are countries from outside the Empire. I would draw the attention of the House to some very pertinent figures. The total value of the market in the United Kingdom in the articles in Schedules A, B, C and D, that is, all the articles on which we get preference in the United Kingdom, is £196 millions. India's present share of that is £49 millions, and that of all the other Empire countries is £44 millions. The share of foreign countries is £104 millions. Therefore, India, with the rest of the Empire, has a capturable market before it of £104 millions. Even today India's share of the market in the United Kingdom is greater than the share of all the other countries in the Empire alone. Then, take the other side of the argument. It is true that a large portion of imports from the United Kingdom into India are not subject to competition to any great extent from countries within the Empire; but again I would remind the House that practically all the imports from the United Kingdom are subject at the moment to heavy and keen competition—competition in regard to articles in which there are low labour costs, and in which there are also depreciated currencies. Then, in the third place, whereas India in the United Kingdom market gets preferences ranging from 10 to 50 per cent. to help her articles against foreign competitors, Britain in this market gets only preferences to the value of 10 per cent., and in some cases of 7½ per cent., to help her in her tremendous fight for India's market with foreign countries.

The second major argument that has been advanced is that this Agreement will seriously damage what have been called the unprotected industries: Those industries which have grown up under the shelter of the existing revenue tariff. I may here say that there will be plenty of time to deal with those things on the Select Committee and there has always been that promise from the beginning. Mr. Ramsay Scott made a strong case and, if I may say so, an able case on this point. I am bound to say I like the latter portion of his speech better than the former portion. I am glad that he has come back like the prodigal son after wandering into the far country! I can assure him that we welcome him back even though he has come back to the same position with which we originally began. I trust, Sir, that Sir Joseph Bhore, who is known to be Christian in thought and deed, will be prepared to offer him, when the Select Committee time comes, a suitable present in the shape of a fatted calf. But, Sir, I would

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say this—those who argue on the lines of the first part of Mr. Ramsay Scott's speech are arguing in precisely the same manner as the Canadian manufacturers argued in Canada face to face with their own Prime Minister. I think the attitude of my own party in regard to this matter generally speaking is that we definitely do protest against the present duties being regarded as protective duties only to be removed with the sanction of secondary industries which have grown up under their shelter. My suggestion to the House is that that way lies a policy of indiscriminating protection which fosters uneconomic industries at the expense of the consumer and the primary producer. Having said that much, I would remind the House that the Committee has inserted in its Report a valuable statement that where any of these industries can make out a *prima facie* case, the members of the Committee who signed that Report have pledged themselves to see what they can do to remove any injury that might be caused by the reduction of the tariff in giving preference.

Now, Sir, the third argument is this. It is that the Agreement will not help world prices. I suggest that nobody has ever said that it will. There are other factors. But there are two points which I should like to make. The first is that surely this Agreement means that if and when prices do rise, the producer will be able to take advantage of the rise. The second is this—in the words of the Agricultural Commission—"the producer in this country can get a better price for those crops which are produced for purposes of export than for those crops which are produced solely for the purpose of home consumption". This is confirmed in a book called "Trade and Industry in Modern India" by Professor Vakil, who gave evidence before our Committee, in which he says:

"It must be pointed out that the high price which the producer gets is due in a great measure to the foreign demand. The home consumer has to offer a price which must be as near the export price as possible, because if this were not done, there would be a strong impetus to export more. This is borne out by the fact that the index number of prices of food grains is generally on a much higher level than that of the general index number. If the stimulus of high prices thus brought about were removed, it is possible that the production may fall."

I leave that argument there in Professor Vakil's hands. The fourth objection to the Agreement raised by Sir Abdur Rahim and his friends is, this Agreement will only serve still further to complicate the world situation. Now, Sir, the Honourable the Finance Member has dealt with this aspect of the case in the most able and, if I may say so, powerful speech to which we listened this morning. While he was speaking, I could not help being impressed by two things which came to my mind. I asked myself "who are the real opponents to this scheme?" They can be divided into two classes. First of all, the free traders and, secondly, the apostles of economic nationalism. Part of our troubles in the world today are due to the untoward development of economic nationalism which has resulted in high tariffs all over the world and the channels of trade are blocked. I claim that this Agreement is the first step in regional agreements which must come. The world cannot afford to wait. The world cannot afford to wait even until the time of the World Economic Conference. Surely if it is possible for great countries within the British Empire to come together and make reciprocal arrangements in regard to trade, thereby facilitating exchanges between countries with vast populations, that is a beginning of recovery from our present difficulties.

I suggest to this House that if this Trade Agreement had been made in similar terms under similar conditions between countries that were not members of the British Empire, there would have been no question that this House would have deemed it one of the most remarkable events that have ever taken place in economic history. Therefore, Sir, I claim, in closing, that while this Agreement gives the final blow to what is called free trade, it also kills economic nationalism. It is a foundation stone for continental economic development and thereby leads the way to world recovery.

Sir Zulfikar Ali Khan (Nominated Non-Official): I do not want to detain the Assembly very long, because all the arguments for and against the motion have been produced and there is very little left to say. We cannot, however, conceal from ourselves the momentous nature of the step which the Empire is now taking in departing from the principles of free trade which have so far been followed in the Empire. In Great Britain, this proposal has produced violent opposition. The Liberal Ministers have resigned and there is a great difference of opinion prevailing in the country. In India also, there are visible signs of revolt against this proposal. My own colleagues have cited the verdict of Lord Curzon's Government in refusing to accede to the desire of those who wanted protection for the Empire. Sir George Schuster, in his lucid and forceful speech, showed that Lord Curzon's objections to it were not based on economic principles. They were more political than economic. Whatever the motives of Lord Curzon's Government were it is clear that since then times have changed and principles of business in the world have also changed. It is the needs of the times which mould the methods and policy of a nation with regard to business to be carried on in the world of Commerce, and the present situation demands that we should consider the position solely from the point of view of our own country. But, Sir, unfortunately it does often happen that nations prefer what flatters their vanity to what serves their interest. I have no doubt, however, that my own colleagues here would take a view of the situation which will conduce to the prosperity of India, and to the cohesion and prosperity of the Empire.

Sir, I listened very carefully to the speeches of the Opposition and of those who are opposed to this Agreement. I must say that with the exception of one or two speakers on the other side, I failed to discover any vitality or force of argument in those speeches. They were mostly half-hearted, and, perhaps, made to suit their future prospects. (Hear, hear.) (An Honourable Member: "Prospects in Government circles.") It is the same thing if you seek circles outside the Government,—it makes no difference. (Mr. H. P. Mody: "Both are circles.") I must say, however, that Sir Abdur Rahim's speech was characterised by patriotic feeling, by sense and by the outcome of his own experience. But, Sir, there were flaws in his arguments which were brought out so prominently by my Honourable friend, Sir George Schuster. Now, I must come to grips with the real problem. Indian trade flows into two channels. One goes to the British Empire and the other towards the foreign countries. The question now is, whether it is in our interest to let trade flow towards the Empire countries, or whether we shall dam this channel and let the water flow entirely towards foreign countries. Well, if we refuse the present Agreement, India would then have to seek

[Sir Zulfiqar Ali Khan.]

foreign markets entirely. Now those foreign markets, as far as I can see, are not very stable—I would rather say that they are treacherous. You are aware that those manufacturing countries—France, the United States, Italy and so forth—possess colonies which they are fast developing. France is most favourably situated. She has her colonies on the Mediterranean coast-line, for example, Morocco, Algeria, Tunis, Syria. These are most productive countries and there France is fast developing the agricultural resources of those countries; and all the raw materials which we may possibly be sending to France will be available in a short time to the French factories in these colonies, and the advantage of those raw materials lies in the fact that these countries are so closely situated to the markets which they seek. India, standing alone, will not be able to capture those markets; in fact, India's chances of keeping her present trade would be very meagre. Sir, I have seen by experience in my travels over the continent of Europe that both big and small countries are all bent upon cutting our throats. They are raising high tariff walls against us, in fact they are raising high tariff walls against their own neighbours and much more against us. Under these circumstances, how can we expect that whatever trade we have with them will flourish in the future and all the trade which we shall lose within the Empire by rejecting this Agreement will find markets in those countries? Under these circumstances, I cannot understand how we can sever our connection economically from the Empire. It would be a very short-sighted policy indeed to let go this present opportunity of improving our prospects of developing our trade within the Empire and to depend on those treacherous markets in the continent of Europe which are called foreign markets. Sir, my friend, Mr. James, has shown what chances there are for us to capture a large part of the trade of the Empire. Well, we can do it by developing our resources and it is the duty of Government to help us in developing the agricultural resources in this country. Now, coming to the problem of imports, the thing which strikes me is this, that however we may grant preference to British goods, the fact remains that unless the purchasing power of the people is strengthened, no goods, whether they come from England or from foreign countries, can find a sale in India. So the primary need not only of the country but of the Government is to see that the purchasing power of the people is enhanced, and their material prosperity developed. Well, my Honourable friend, Sardar Sant Singh, who comes from the same province as myself, has said that wheat in the Punjab has no chance of being exported from India according to the proposed arrangements. I also listened very carefully to my friend, Mr. Muhammad Yamin Khan's arguments. He produced his arguments at great length with facts and figures, and so on, but he foundered on the rock when it came to suggesting practical means of improving the chances of wheat by reducing the cost of production. In my own note, I have suggested a few remedies. First, I ask the Government to grant concessions for the Punjab wheat. The first is a revision of the water rate, second, the revision of the railway freight and third, the revision of the shipping charges. If these three rates are revised and reconsidered and they are appreciably reduced, I have no doubt that the Punjab wheat will have a great future before it and it is a well known fact that before, and after the war, we exported large quantities of wheat from the Punjab. In fact, the

prosperity of Karachi is due to this export trade from the Punjab and, on account of it, the Punjab cultivators found great prosperity. But since the cost of production has increased in the Punjab, the profit which could be derived by exporting wheat from the Punjab has also disappeared. The result is that Australia, the Argentine, Canada and Russia and other countries have competed with us. Obviously under the present circumstances there is hardly any chance for the Punjab wheat to derive any advantage from the proposed preference because when the Australian wheat can attack our own home markets here with profit, at any rate along the coast line of India, how can we hope to derive any advantage out of the competition in the markets of Great Britain?

Mr. Muhammad Yamin Khan: I may point out to my Honourable friend that the cost of production of wheat in Australia, I am told, is about Rs. 8-2-0 per maund which is much higher than the cost of production of wheat in India is.

Sir Zulfiqar Ali Khan: Then, how can it compete successfully with the Indian wheat? It is a great pity, Sir, that people from other provinces who know so little about the problems of cultivation and the cost of production in other provinces have the audacity to say these things. I come back to wheat and will continue my argument with regard to its prospects. I hope, Sir, I have a few minutes still.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member has already had 15 minutes and the Chair will allow him only five minutes more to conclude his remarks.

Sir Zulfiqar Ali Khan: Thank you, Sir. I will rush through all that I have to say. Wheat, as I have said, must be developed not only in the interests of the Punjab, but in the interests of Government themselves, because, as I have said before, the purchasing power of the people must be strengthened and that is the concern of both the people and the Government. If facilities are afforded to the people in the Punjab in the way I have suggested, I have no doubt that the wheat trade in the Punjab will revive and find prosperity.

Now, with regard to cotton. That is also another staple crop in our province. Sir George Schuster has clearly shown that cotton in the Punjab is not likely to suffer at all, because the demand for the Punjab cotton is not diminishing in any country, especially in Japan. Under these circumstances, our apprehensions with regard to the hard times before us in connection with these two commodities are not well founded.

Now, Sir, I will not deal with any of the arguments put forth by some of those who oppose this motion, because there is no time, but I must appeal to my Honourable friends that from the short speech that I have made they will feel that the chances of India are much brighter by agreeing to the proposed Agreement than otherwise. Sir Hari Singh Gour began his speech yesterday by quoting from Omar Khayyam and I will close mine by quoting Omar's Verse: I say that if you Honourable Members of this House miss this opportunity of taking advantage of this Agreement, your reward will neither be here nor there.

Mr. Gaya Prasad Singh (Muzaffarpur, cum Champaran: Non-Muham-madani): Sir, before proceeding to make a few very general remarks, which I should like to offer, I desire to record my protest at the way in which the papers that were available to the Members of the Special Committee have been withheld from this House. It was as if with a triumphant air that the Government agreed to go into the Special Committee, and there to examine expert and other witnesses in order to come to a correct conclusion. The experts have been examined, and their evidence has been recorded; but the Members of this House have been deprived of the opportunity of studying the papers and coming to their own conclusions. Sir, I am not raising a definite point of order, but some Members of this House have read from the evidence recorded in the Committee; and I understand that there is a practice in this House, although it is not embodied in the rules, that no Member should be allowed to read from a paper which is not available to the other Members in this House. Apart from that, it is hardly fair that Members of this House should be deprived of the right of studying those papers, and formulating their own conclusions thereon. I would even now request my Honourable friend, the Commerce Member, to supply the Members of this House with a copy of the evidence that has been recorded in the Special Committee.

Sir, about three years ago, Pandit Madan Mohan Malaviya, the then leader of the Nationalist Party in this House, and the revered leader in the country, resigned from this House with a few of his other colleagues on this question of preference which was then accorded to one article only against the protest of the majority of the elected Indian Members. Today I find that my esteemed friend, Sir Hari Singh Gour, the leader of the Nationalist Party, has joined hands with the Government in accepting the principles of Imperial Preference for at least three years. Sir, my Honourable friend, Mr. Chetty, for whom I have great respect, went to Ottawa as the Government's nominee. There he signed that Agreement which he now tries to justify, and to ask us to accept. Sir, this reminds me of the well-known fable—the story of the fox without the tail. (Laughter.) My Honourable friend has lost his tail at Ottawa in the interest of India, as he says; and now he tries to deprive some of my colleagues of their necessary appendage. (Laughter.) It may be painful for some Honourable Members to submit to that operation, and I would appeal to them not to be beguiled into accepting his very specious plea in this matter. Sir, my Honourable friend paid a very handsome compliment to Sir George Rainy. I myself endorse what he has said with regard to Sir George Rainy. But I must look at this question from my country's standpoint. An Englishman, Sir, is nothing if not a sturdy patriot of his own country, a virtue in which many of us are lacking. My Honourable friend went further and said that he will sign blindfolded any agreement to which Sir George Rainy is a party. Well, he has already performed that feat at Ottawa, which he now tries to support on the floor of this House. My Honourable friend, Sir George Schuster, has paid a very handsome compliment to the Indian Delegation. Sir, I am very gratified to learn this. He has gone further and eulogised those speakers who have supported the Agreement by their speeches. Will my Honourable friend also abide by their opinion with regard to the Ordinance Bill which is still pending? When he has paid such a handsome compliment to my Honourable friends, like Mr. Chetty, Sir Hari Singh Gour and Mr. Ranga Iyer, or even his own protege, Mr. Mody, on the Ottawa Pact, is he prepared to take their opinion also in the matter of the Ordinance Bill? But, at that time, it

will be said that they are in the wrong. The real fact of the matter is that Government have got their fixed programme, and they only take whatever co-operation is needed from those who are willing to offer that co-operation at that particular stage and with that particular object which they have in view. When that object is achieved, they do not seek their advice. So, it should not be particularly gratifying to those Honourable Members to whom handsome compliments have been paid just now that they would maintain the same high position in the estimation of Government in other matters which fortunately they occupy so far as the present question is concerned. My Honourable friend, Mr. James, said that this Agreement will kill economic nationalism. Sir, my answer to that is that it will do nothing of the sort; it will only create economic Imperialism. (Applause.) My Honourable friend, Sir George Schuster, and my other friends like Mr. Chetty have, as it were, entered into a sort of mutual admiration society. (Laughter.) My Honourable friend, Mr. Chetty, says that at times it may be necessary to be honest rather than to be popular; he has gone further and admitted that the bulk of opinion in this country is against the ratification of the Ottawa Agreement. Sir, if that is so, why should we go against popular opinion? We claim to be the representatives of the people; we have come here on their suffrage, and we must respect public opinion. But, in the present case, there is no divorce between popularity and honesty. It is possible both to be popular and honest, and so far as the present question is concerned, I hold that to oppose the Agreement is to be popular outside and to be honest inside.

Sir, I shall now make one remark about my Honourable friend, Mr. Mody. My friend made his speech on the first occasion in a somewhat diffident tone and in a spirit of opposition. Yesterday he warmed up and exhibited a degree of emotion which was remarkable to many of us. He is quite welcome to change his opinion as often as he likes. We have come to associate these political somersaults with such gentlemen. But he went further and twitted some of the Members on the Opposition for their sudden and fancied interest in Indian industries, and specially the industry which he represents. Sir, has he forgotten how many times he has come with a beggar's bowl in this House and asked for protection for his own industry? I have been a Member of this House since 1924, and I do not remember any occasion on which his beggar's bowl has been refused by us. We have supported him with votes, we have supported him with funds from the Indian Exchequer, and we have given him whatever relief he really needed. But this ungrateful representative of the Bombay mill industry (Laughter) forgets all that we have done for him, and now twits us with harbouring unfriendly feelings to the industries of this country and to the industry which he represents. Sir, what is the reason for this sudden transformation in his vision? Perhaps the measure of protection which he now requires at the hands of the Government, and which will probably come up before this House in March next, is a sufficient index for this somersault which he has performed. Sir, we have been consistently supporting the mill industry in India as a national industry, and will he forget what part we played in the abolition of the cotton excise duty and granting other protections? We will now think twice before we support any extravagant claims of the industry. We shall be prepared, in spite of what he is doing today, to offer his industry whatever legitimate protection it is in need of. My Honourable friend, if I remember aright, opposed this Agreement in his first speech a few

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days back, but for some mysterious influence he has turned round and supported it now. My Honourable and esteemed friend, Sir Hari Singh Gour, has been waxing eloquent over the safeguards which he says he has provided in the Agreement. There can be, as has been pointed out by the distinguished Leader of the Independent Party, Sir Abdur Rahim, only two situations. Either we shall have responsible Government within two or three years, or we shall not have it. If there is responsibility in the Centre, there will be no need for safeguards; the autonomous Parliament will do whatever it likes. If there is not that measure of responsibility, as I fear there will not be, what is the worth of the professed safeguards? Today the Ordinance Bill is pending before the House. Has my friend or anybody else been able to check its progress even a little bit? So, Sir, the safeguard which he seeks to provide is only illusory and it should not blind our eyes to the realities of the situation. Sir, the Indian Fiscal Commission, with which your honoured name will be associated for all time, has in very clear and unmistakable terms laid down the policy to be followed in this respect. May I now conclude with the remark which your distinguished predecessor in office, Mr. V. J. Patel, made when he said: "No Ottawas for us"? With these few words, Sir, I oppose the amendment which is under discussion. (Cheers.)

***Seth Haji Abdoola Haroon** (Sind: Muhammadan Rural): Sir, on this Agreement so much has already been said that I do not want to go into it in detail; but I find that up till now those who oppose this Agreement have three arguments: the first is that whatever preference we have got from the United Kingdom is not much valuable to us and, second, that whatever preference we have given to the United Kingdom is very much harmful to this country, that is, it is Imperial Preference, and so on; and, third, that whether the Agreement is beneficial to India or not.

According to my views, I think that I have to take first the export business of India. You will see, especially within the last three years, on account of the depression of trade all over the world how we are proceeding and how India's trade proceeding with England and foreign countries. I find from the pamphlet published by Mr. Nalini Ranjan Sarkar, President of the National Chamber of Commerce of Calcutta, that he says that the present export trade of India is diminishing every year, whereas the export trade with the United Kingdom is improving within the last three years. According to his figures, he says the United Kingdom, including the British Empire, we had 38 per cent. export business in 1913-14, 36 per cent. business in 1929-30, 40 per cent. in 1930-31 and 44 per cent. in 1931-32; whereas with foreign countries we had 64 per cent. in 1929-30, 60 per cent. in 1930-31 and 55 per cent. in 1931-32. According to these figures the export trade of India is diminishing with foreign countries; he has not said anything why it is diminishing; but according to my view it is on account of three causes.

First, since the last three years Europe is enhancing the tariff wall against the Indian exports. My friends will find out from the report of the Majority Committee that on so many articles the foreign countries have already enhanced the tariff wall against India. The second thing,

*Speech not revised by the Honourable Member.

and, that is very important, is that on account of depression they are unable to get credit to purchase something from the outside world. I have personal knowledge of some examples. Why? Because the depression is not on account of the Agreement at Ottawa, but it is the general depression. Nobody knows when this depression will be over, but, if it is continued, I do not know what my friends, who are always arguing that there is no fear about the export trade of India and that we can find a market in foreign countries, will say. As a business man, I find that today my customers are merely purchasing 44 per cent. of my commodities, whereas in other foreign countries not any of them can purchase my goods more than 6 per cent. or 7 per cent., on the other hand England and Empire countries are purchasing together 44 per cent. of my export. You have got a schedule before you in the Majority Committee Report of all these commodities and this can be easily found out. I have very little time to give these in detail. But if today we throw out the Agreement according to the views of some of the Honourable Members on account of their political or other views, this closing up of the export business of 44 per cent. with the United Kingdom will be a disaster for Indian export trade. I want to give one example which I have seen of this kind—that of Greece in Europe which has prohibited the import of sugar into their country from any country except the United Kingdom, although the United Kingdom is not a producing country, but still they allow the United Kingdom, because they have a favourable balance of trade with the United Kingdom, whereas they have no favourable balance of trade with any other country. If these things are going on all over the world today and nobody can say when it will end, it is advisable for this Honourable House not to throw out the Agreement immediately without considering it. Just now, my friend, Mr. Gaya Prasad Singh, spoke in detail about each and every Member. I am very sorry, but if my Honourable friend had been a Member of the Select Committee, I am sure, with his open mind and justice, he would have been convinced that the Ottawa Agreement was favourable. I cannot convince those who, on account of political or other views, hold different views; but, I am sure, I can convince any business man who can sit with me and consider the Ottawa Agreement, item by item.

An Honourable Member: What about the agriculturist?

Seth Haji Abdoola Haroon: If any agriculturist can spare the time and have an hour's conversation with me, I shall try and convince him immediately he asks me to go to him and sit with him to examine this Agreement.

Another point is that the preference that we have given to the United Kingdom is Imperial Preference more favourable to them. If, however, you go through these figures, which are given by Mr. Sarkar, you will find that we get the United Kingdom and the whole of the British Empire importing into India not more than 44 per cent. of their imports whereas they are purchasing 44 per cent. of our exports. There is a general attack that, on account of these preferences, our industries will suffer—the soap industry and many others will suffer—I do not know how many. But, according to my view, I find that till 1930 there was only 15 per cent. of tariff value duty. On account of financial difficulties, the import duties were raised from 15 per cent. to 25 per cent. I do not know if

[Seth Haji Abdoolah Haroon.]

this House will always say that this 25 per cent. duty should not be reduced even when the financial position of the Government of India improved. If that is so, then it is all right, otherwise I do not think a reduction of 5 per cent. duty will do much harm to Indian industries. However, Sir, there is plenty of time before the Tariff Bill comes before this House. The Select Committee must sit and consider each and every item. As my friend, Mr. Ramsay Scott, said, we shall have to consider all sorts of industries.

Lastly, I want to deal with the question whether this Agreement is favourable to India or not. As a business man, whenever we are making a bargain, we generally calculate how much we will gain or how much we will lose. According to that, I very much appreciate the time spent and labour taken by my friend, Dr. Ziauddin Ahmad, in preparing a list showing for the years 1929-30 how much we exported and how much we imported in respect of each and every item. According to his calculation, we find that we get preference from the United Kingdom to the extent of 7.4 crores, whereas we have to give to the extent of 2.85 crores preference in imports. As a business man, I have to look to these figures, and I find that according to the present Agreement India will not lose anything, but on the other hand she will gain something. That is my conclusion, and, therefore, I support this Agreement.

Mr. O. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhamadan Rural): Sir, I must congratulate Honourable Members on this side of the House, though such an opportunity seldom comes to me, on the good moderation which they have exercised while answering some of the arguments pressed from this side of the House again to enable them to revise their judgment, which I hope they will do, because the division time is near. My friend, the Secretary of my Party, Mr. Gaya Prasad Singh, took a cheerful view of the situation which shows that he at any rate will be open to conviction, and even though he may go into the opposite lobby for the mere sake of opposition, yet, at a later stage, we will find him and friends of his way of thinking clamouring for a place in the Tariff Committee and thus accepting the Ottawa principle which this Resolution embodies.

Mr. F. H. James: That is why I objected to the Committee.

Mr. O. S. Ranga Iyer: Sir, I also find that my friend, Mr. James, says he will object to it, but his objection will not prevent us from getting friends of Mr. Gaya Prasad's way of thinking to endorse the principle by going into the Committee. I also believe that Sir Abdur Rahim, the respected Leader of the Independent Party,—for whose judgment, even when we do not see eye to eye with him, we have great esteem,—will also see his way, if he loses, as he is certain to lose on this Resolution, to go into Committee and thereby accept the principle of the Ottawa Agreement.

Sir Abdur Rahim: No, no.

Mr. O. S. Ranga Iyer: I hear my friend, Sir Abdur Rahim, say "No, no," but a great parliamentarian like him should not take a non-co-operating attitude. It is better to have fought and lost than never to have fought at all. Even supposing Sir Abdur Rahim and I and Sir

Hari Singh Gour and all of us had signed the Agreement, even then by design we would have to ask Sir Hari Singh or Sir Abdur Rahim to stand up and oppose this motion. (Laughter.) Where is the Parliamentary Utopia, may I know, whose angelic denizens never differ among themselves? Parliamentary opposition is necessary for Parliamentary politics to thrive. But fortunately on this occasion it is not by design that Sir Abdur Rahim is opposing this Resolution; not that he is convinced that non-ratification is the only way. He never took up that extreme attitude—neither in his speech in this House nor in the Committee. It was with great admiration bordering almost on devotion that I, who worked with him in Committee, found this great public man—who had served the country as a Judge, an eminent Judge of the High Court of the province to which I have the honour to belong—would not take up that wholly intransigent attitude, faced with the facts which stared us in the face. Sir, as a Member of the Bengal Government, he was not afraid of courting unpopularity by going against surging public opinion in Bengal. Therefore, none on this side dare accuse him as a lover of popularity. He was not afraid of taking a bold stand against my late lamented leader, Mr. C. R. Das, who stood then for all that was vocal in the Congress, with whom I had to travel long distances in the South, to form the Swaraj Party. Therefore, none on this side can lightly accuse Sir Abdur Rahim of trying to fish for or to flirt with popularity. Today we are convinced that the course that he adopts is a course which is controversial. He is entitled to his judgment. He has formed his judgment not after a careful, lasting and satisfactory examination of the question as he himself has told us. He did not say—reject the Agreement. He said,—and he was entitled to that opinion,—give us more time to examine: let us have a Committee which will go into this question, examine the industrial experts and agricultural and other experts so that we may be in a position to say once for all whether the Agreement is to the advantage or the disadvantage of India. That was not an attitude which could be condemned as the attitude of a young man in a hurry. That was an attitude in keeping with his ripe age and his great experience, but some of us who differed from him understood that time was of the essence. The Government of India unfortunately were not the only party to the transaction. They could not postpone, owing to the fact that Great Britain is the important factor in the question, and owing to the fact that Great Britain had already agreed to Agreements with the other parts of Empire. It was impossible for us, some of us who do not, so far as our eye can see, visualise a state of affairs when we can afford to stand out of the Empire,—so long as we take up an attitude of association with the Empire nations—even though as an absolutely equal nation—an equality which I see very near—so long as we take up that attitude it was not possible for us to say, postpone this Agreement, when no postponement was possible. What was the alternative? I at any rate was completely in sympathy with Sir Abdur Rahim's attitude in the Committee until almost the very last day when he went out of the Committee after making a statement. He was present when I made my statement. I had not made up my mind, and if he was present the next day I am certain he would have changed his mind. He was not present the next day, and, for full four hours, almost singlehanded, I had to put up a strenuous fight against the European opposition whose views I cannot say were blinded by prejudice. I had to put up a strenuous fight against the semi-silent unwillingness of the Government to give us the Committee that we wanted. That Committee is the Assembly Committee which would sit

[Mr. C. S. Ranga Iyer.]

in judgment from year to year on the working of the Ottawa Agreement. We said: "You chose the Ottawa Delegates without consulting us. The Assembly had no voice and no choice in that matter. Therefore, the Assembly must at any rate have the right of sitting in judgment over the working of the Ottawa Agreement and watch from year to year the rise and fall of the trade tide and report to the House so that the House will have an opportunity of discussion year after year," and either the Government, guided by the wisdom of that Committee, will denounce that Agreement in six months, a right which has not been taken away, or within three years the accumulated evidence which comes before this committee would be ample testimony for India wrecking that Agreement. I consider that, as I have said . . . (At this stage Sardar Sant Singh made an interruption.) The Honourable gentleman says that this attitude smacks of petitioning. His very presence here, if he will go and ask my friend, Pandit Jawaharlal Nehru, is the result of a mendicant policy of co-operation with the Government. We are here in defiance of the Congress mandate and if I did not believe in the policy of co-operation on equal terms, which I do not consider to be a policy of mendicancy, I would not have been here. I would have followed them through the great struggle as I have followed them in the past. Let my Honourable friend, if he does not want to petition, agree with the Sikh left-wingers in the Punjab, resign his seat here and take his proper place in the civil disobedience movement.

Sardar Sant Singh: On a point of personal explanation, Sir. My Honourable friend has entirely misunderstood me. I said that after the three years there would be a flood of applications in the bankruptcy Courts on account of the trade going down.

Mr. C. S. Ranga Iyer: That shows the Honourable gentleman's education has yet to progress on the Agreement and the Report that we have made. I would ask him very carefully to read it again, for every year there will be a Report published by the Government and the Committee appointed by the Assembly will have the opportunity of sending for witnesses, for representative men including the Honourable gentleman if he is sent from the Punjab as the custodian of the agricultural interests. (Laughter.) They will all be examined from year to year. That is not petitioning, that is application in a great cause. If the Government had not yielded on this fundamental matter, namely, the appointment of a Committee of enquiry which from year to year will sit in judgment on the Ottawa Agreement, I at any rate would have been today on the side of Sir Abdur Rahim. My regret is that he was not present on the last day after making his important, earnest, sincere statement—for who can charge Sir Abdur Rahim with insincerity, who worked with Gokhale in the great days of the Public Service Commission and wrote the famous dissenting minute, and I, knowing him as I do,—and my relations knew him better, one of whom happens to be a Judge of the Madras High Court,—who knew him well—knowing him as my friends and relations have known him, I can only say that he was animated by the most sincere of considerations when he decided to stand away. But we claim the equal right of sincerity. My Honourable friend, Mr. Gaya Prasad Singh, was mud slinging Mr. Mody. He said, Mr. Mody took up one attitude here, and another attitude elsewhere. We did not go into the Committee with a mind made up. (Hear hear.) He said and others have said the same

that Mr. Mody spoke with diffidence, almost like a sucking dove, (Laughter), before he went into the Committee, but he spoke with confidence—almost in defiance when he came out of the Committee. Why not? He knew more in the Committee. He worked with us late hours into the evening and for several hours by day, and arrived at . . .

Mr. Gaya Prasad Singh: It was a magic Committee.

Mr. C. S. Ranga Iyer: My Honourable friend says it is a magic committee. His attitude has not even the beauty of logic in it; it is too tragic for words. (Laughter.) His charging Mr. Mody with inconsistency only reminds me of the girl that Mr. Gaya Prasad Singh met thirty years ago. Mr. Gaya Prasad asked her, "What is your age?", and the young lady said, "Sweet seventeen". He met her 20 years ago, and asked her "What is your age?". She said, "Sweet seventeen". He met her three days ago, and she said the same "Sweet seventeen". He is all adoration over that lady, because she was consistent. (Laughter.) And he is extremely angry with my Honourable friend, Mr. Mody, because he is inconsistent. I know the sensational Press out in the country want Mr. Mody's head on a charger. Sir, when Oliver Cromwell returned from Ireland, one of his admirers went and said: "Don't you see the number of people in front of you? How popular you are!" Oliver Cromwell with his sense of humour said: "Many more would have liked to have my head on a charger." The question of popularity and unpopularity is a very dubious one, Mr. Gaya Prasad went for Mr. Chetty, because he went against the popular opinion in the country. According to the Secretary of my Party, a new slogan has got to be introduced into the English language: "Honesty is the best popularity." (Laughter.) Sir, we believe in honesty, not even as the best policy; we believe in honesty, not for policy's but honesty's own sake, and if we are willing to face unpopularity, as I have faced it in the past when conviction grew on me, it is because nothing like facing Mrs. Grundy whose swollen head before a strong will and conviction will become diminished. One man of conviction, said the great Burke,—and I may parody what he said—one man of conviction is equal to one million people without conviction. (Applause.)

Diwan Bahadur Harbilas Sarda (Ajmer-Merwara: General): I had no intention of taking part in this discussion, but as my colleagues on the benches behind me demand that I should speak as I was a member of the Ottawa Agreement Committee, I rise to say a few words. I signed along with two other Honourable Members the Minority Report and that Report embodies my views on this question of the Agreement. If we did not recommend to this House that this Agreement should be ratified, it was because, after a full consideration of the materials placed before us by Government and after considering the evidence that was given before us, we came to the conclusion that this Agreement was not in the interests of this country.

I am sorry that a worthy Member of this House found it possible to insinuate that it was because of political bias that we signed our Minority Report. I must here repel that insinuation with all the force that I can command. Sir, I have been nurtured and brought up on English literature and English thought. My training, during my career of 35 years in the service of the Government of India, and my education belie that insinuation. If I had any political bias, it is in favour of England and not against it.

[Dewan Bahadur Harbilas Sarda:]

Though our Report says that this Agreement should not be ratified I am of opinion that ratification is not the question that is before us. The question of ratification arises only when an agreement has been arrived at between the accredited representatives of two countries. The representatives of a Government can be taken to be representatives of a country if it is a self-governing country. As the Government of India is a subordinate branch of the Government of Great Britain, the position of the Indian Delegates was quite different, and there can be no question of ratification. The question is, whether this Assembly should accept the Agreement that has been arrived at between the representatives of the two Governments. I am quite prepared to accept that the Indian Delegates to Ottawa were inspired with the best of motives and I also believe that they did their best to secure as many advantages as they could for our country in the circumstances in which they were placed. My information also is that the Honourable Sir George Schuster, who was there in an advisory capacity on monetary and fiscal questions, laid the case of India in fiscal and economic matters as well as any patriotic Indian could have done.

Sir, it is gratifying to us to find that the British Government have declared that this Agreement will not be considered as ratified until this Legislative Assembly has accepted it. It is a matter for satisfaction so far as this thing goes. The principle underlying is that no economic arrangement would be binding on this country until the Legislature of this country accepts that arrangement. Though, constituted as the present Assembly is, this declaration is not of very great value, still the principle underlying this declaration and the acceptance by Britain of that principle are of great value and will be very useful to this country later on.

As regards the Agreement, we, who signed the Minority Report, thought and still think that so far as exports from India sent to England are concerned, we need not worry over the threat held out by England that a duty would be levied on those exports. These exports are mostly of raw material and England will think twice before levying a duty on them and thus increasing the burden on the consumers in England, so far as wheat and tea and such other things are concerned. And so far as jute and other things are concerned, such as skins and hides, if England levied a duty on these imports, it will only increase the cost of production of her manufactures which will be a handicap for her in competing with the products of foreign countries of a similar nature.

As regards English imports into India, this Agreement gives their preference. One of our main objections to this was that by giving preference to English products and levying a higher duty on non-United Kingdom goods, we will increase the cost of production of our manufactures. We will have to pay more for certain things which we use in our manufactures and which are imported from non-United Kingdom countries, and the cost of production of our manufactures will, therefore, increase and we will not be able to compete with foreign manufactures of the same kind which come into India. It is perfectly true that by giving England preference we are helping English industry, but our objection to this Agreement is not that England would be benefited by this Agreement. If England benefited, we have no objection. We are not jealous of England. Our objection was that the arrangement would result in more loss than gain to this country.

Sir, England was a free trade country, but now she has become a protectionist country. When England adopted free trade, it was not because she thought that the world would benefit by free trade; not because she thought that for the good of the people nothing should be done to hamper free movement of goods, nor that, if no duties are levied, the requirements of people in different parts of the world would be supplied to them more cheaply. Situated as England was at the time, it was in her interests that there should be free trade. She was the mistress of the seas, and was a country far in advance of other countries in manufacturing goods for foreign countries. She found that her trade would expand and continue to expand if no duties were levied in any country on the articles which she imported into those countries. If England had not been a great manufacturing country, but a raw material producing country, her policy would have been quite different. England's aim is constant and it never changes. She understood perfectly well that free trade meant exploitation of a non-manufacturing country and accumulation of wealth and, therefore, of power for manufacturing countries. This truth

4 P.M. was fully understood by Adam Smith, the father of the British political economic science, when he proclaimed that it was good for the rest of the world that there should be free trade. He, however, understood all the implications of this question and he said that, when necessary, England should have protection. Those who have studied his book, "The Wealth of Nations", are aware that he thinks that so long as English manufactures go to other countries and find a market there, it is England's interest that there should be free trade for English goods; but he also lays down that when the state of affairs is different and manufactured goods are imported into England, England should have protection. I shall read a few lines with regard to this policy of England from a book recently published. It is Mr. Ramgopal's "Selections from Ingersol". In his Review of Professor Denslow's "Modern Thinkers", dealing with Adam Smith's theory, Colonel Ingersol, who was one of the greatest orators in America, says:

"I was glad to find that a man's ideas upon the subject of Protection and Free Trade depend almost entirely upon the country in which he lives or the business in which he happens to be engaged.....It gratified me to learn that even Adam Smith was no exception to this rule, and that he regarded all protection as a hurtful and ignorant interference except when exercised for the good of Great Britain. Owing to the fact that his nationality quarrelled with his philosophy, he succeeded in writing a book that is quoted with equal satisfaction by both parties. The Protectionists rely upon the exceptions that he made for England, and the Free Traders upon the doctrines laid down for other countries."

This shows that England's aim is constant and there is no inconsistency in England's attitude. England was once a free trade country, but now she is a protectionist country. Why? She knows that conditions have changed. As Japan and Germany and America are outstripping her in producing manufactured goods for the world's markets, she finds that it is necessary for her to have all the advantages of free trade so far as possible in the countries which she can influence and all the advantages of protection against free competition by other countries. Therefore, Sir, we must remember that England is working for her own good when she asks for preference for her goods. But it is our duty to consider what is for the good of our country.

I shall conclude with reciting a line which my friend, Mr. Shanmukham Chetty, quoted from the Great American poet, Lowell. He said:

"he is a coward who would not be in the right with two or three."

Mr. R. K. Shammukham Chetty: Who dare not be in the right with two or three.

Diwan Bahadur Harbilas Sarda: Now, our Committee, Sir, consisted of 16 members. And I, with my two friends, we three have dared to be in the right, while my friend, Mr. Chetty, was in the majority of thirteen, whatever that number may signify. (Cheers and Laughter.)

Mr. S. C. Mitra: Sir, I had my opportunity to express my views about the Ottawa Pact on a former occasion and, in the meantime, nothing new has happened to change my views. Sir, I have no interest in any Tariff report which will require any backing by Government in the coming Winter Session, so I hold to my views. Now, I shall only say a few words as I know that the whole House is impatient to conclude this debate. I shall not take more than a few minutes—not about the Ottawa Pact, but about the Bhoré-Gour pact that is now before the House for ratification.

Sir, I hope, my friend, the Honourable Sir Joseph Bhoré, will explain how he will implement the conditions that have been arrived at between the two parties. I should like him to explain at least one thing which my friend, Mr. Gaya Prasad Singh, has so exhaustively dealt with, as to why the evidence before this Special Committee was not placed before the House and why the Committee was held in camera. Sir, it has become the fashion to follow English customs blindly. One can understand that in the case of the Government in England, where Ministers are responsible to Parliament, the convention has grown up for making Select Committee procedure secret, but here where speaker after speaker including the Deputy President who, in a very lucid speech tried to explain his position, have made a point that had the whole evidence and discussions, that were before the Special Committee, been known to the House, they also would have been similarly convinced. I cannot understand why then the whole proceedings have been kept secret. My friend, Seth Haji Abdoola Haroon, now repeats that if all the facts that were discussed in the Select Committee were known to Honourable Members, they would have been very much convinced. I hope the Honourable the Commerce Member, when he will rise, will explain why he made it a condition to keep everything secret—not only at the time when the Committee was sitting, but its proceedings are even now kept secret.

Then, there is another point. It is said that the Government of India Delegates at Ottawa were not free to exercise their judgment. Now, it has never been said, so far as I understood my Leader, Sir Abdur Rahim, that while in England, the members of our Delegation were denied any opportunity which was given to members of other Delegations. The whole case from our side was that, unlike the other Delegations from the Dominions or Colonies, the Government of India Delegates had no opportunity, while they were in India, to have instructions or to discuss these matters with merchants or the Chambers of Commerce, who are the persons who could rightly guide them. It would, I hope, be not derogatory to the members of the Delegation to say that they were not conversant with all the phases of trade relationships; and so I ask, what was the reason that the Government of India did not give them any opportunity, while they were here in India, to consult the trades people, the merchants and the Chambers of Commerce. That was the point that we wanted to make. We find that the other Delegations consulted their own people and had a list of the goods on which Britain wanted preference and also a

list of the goods in respect of which the Dominions wanted preferences. They consulted their own people and when they were in England, certainly there was no discrimination made of course. We urged that our Delegates, with the best of their intentions and with all their ability, were in a very unfavourable position to compete with or grapple with these experts.

There is one other point with regard to my Honourable friend, Mr. Ranga Iyer's statement. I congratulate him on his very moderate and considerate speech. I know his heart is fully patriotic; and if he had urged anything in favour of this pact, it was only because of the idea that a great concession has been made to this Assembly. Sir, I think we have in this House the right to have a Select Committee and in the Select Committee we have a right to call for evidence. I do not think that is any new power that we have obtained by this pact. Now, from a perusal of the newspapers, I find that in the Round Table Conference Lord Irwin in his speech placed before them certain safeguards. Now, we know that formerly there were only three safeguards, but these have now been lengthened to eight; and the eighth safeguard is that the Viceroy must have power in his hands in case of any difficulty over relationship with any Colonies. That power in the Viceroy's hand is meant as a safeguard so that the future Legislature cannot go into a question like this. I think, on this matter also, the Commerce Member will explain to the House how the attempt that is being made to keep the future Legislature out of any power to deal freely with the Colonies, or the British interests will be dealt with. There is hardly any time at my disposal and I wanted to say a few words about my friend, Mr. Mody. I think he has a short memory, otherwise his predecessors from that constituency knew, when the Swarajists were in power, how they had to go from door to door to secure their interests. He was angry that though he gets a very fat salary from the Millowners, whose President he is, God has denied him a bulky body. I would only like to say this to him that he is not the only man who has stood for the interests of the industrialists in this House, but, times without number, I think, the Opposition have helped every industrialist who came with any such suggestion in all the cases of discriminating protection. As Mr. Gaya Prasad Singh remarked, it was Pandit Madan Mohan Malaviya who, with his whole party, walked out of the House as a protest on such an occasion. So, if he thinks that he is serving the interests of the millowners by making such absurd remarks, I think he is going too far. It may be that in the next Session Government may be too powerful to help him, but one day he will have to come to us if his industry is to prosper. I know the millowners, when it suited their purpose, went to the Congress. The whole agitation about boycott is financed by the millowners.

Mr. H. P. Mody: If my Honourable friend's real desire is to misrepresent what I have said, then I do not wish to prevent him from doing so. But I have said nothing of the sort which he is now suggesting.

Mr. S. C. Mitra: Sir, I accept his statement and I shall be the last person to continue in that way. Sir, one fundamental question I wanted to make clear. It is known to every student of economics that for a country which has got a developed industry or which has no manufactures of her own and depends entirely on agriculture, it is good for her to have free trade. It is in the interests of England to have free trade. But when other countries have begun to develop their industries, they have to

[Mr. S. O. Mitra.]

put tariff walls to protect their nascent industries and later on discriminating duties also. So, it was always to the interests of England, which is far ahead of any other country in the matter of manufacture, to have free trade, but when she found that other countries were raising high tariff walls, she was in a predicament. In 1897, I think, Canada first brought to the notice of the British Government to have recourse to protectionist measures to safeguard their interest against United States of America high tariff, but all along it was in the interests of England to stand against any protective policy. Now, as regards India, she could well afford to be free, were it a mere agricultural country. But we are gradually developing our own industries; so it is to our interest to have a protective policy to preserve our own industry. England is anxious to get hold of all the Dominions and Dependencies and is putting pressure on other countries not to raise but to reduce their tariff walls, because it suits her own purpose. I was glad when Sir George Schuster made the point quite clear that it is from the point of view of Imperial interests and not so much for India's good that they support the Ottawa Agreement. From that point of view, it is certainly supportable. In that case it must be agreed to with the willing consent of Indian public opinion. It may be said that this House, by a vast majority, will support this Ottawa Pact, but it is equally known that the whole country will almost unanimously oppose it. Sir, if these things in trade matters are forced on us, the desired effect that the Honourable Sir George Schuster wants to bring about will not be attained. On these considerations, I do not support this pact.

Several Honourable Members: The question may now be put.

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

The motion was adopted.

The Honourable Sir Joseph Bhore (Member for Commerce and Railways): Sir, it is not altogether an easy matter to reply to a debate which has extended for so many days and during the course of which so many individual issues have been raised. My task, has, however, been rendered comparatively simple by the great assistance which has been forthcoming from all quarters of the House in replying to an Opposition which, I venture to think, has grown weaker and weaker as reasoned and considered views have taken the place of prejudice or suspended judgment. One fact which has, to my mind, prominently emerged from the inquiry of the Committee appointed by this House is that the economic theories which we have heard enunciated are at the worst most dangerous will-o'-the-wisps and at the best fitful and uncertain guides. Their authors have qualified their premises with so many conditions, they have admitted so many imponderable, mitigating or aggravating factors, they have in so many cases gone no further than merely to indicate tendencies or probabilities that the results to my mind, are bereft of any practical value whatsoever. Yet, Sir, it is largely on the basis of these economic theories that much of the Opposition to the Agreement has been founded. I cannot within the time at my disposal do more than refer to one or two typically fallacious arguments of the kind

which are so largely used to support the opposition to the Agreement. It has, for instance, been argued that if we, as the result of preferences, granted by us, bought more largely from the United Kingdom, we would buy less from foreign countries and that they, in their turn, would not be able to afford to take as much of our exports as they have done in the past. While, on the other hand, if we, as the result of preferences we obtained, sold more largely to the United Kingdom, then we should meet with keener competition elsewhere from rivals ousted from the British market and that thus our trade would be merely diverted and not increased in the aggregate. My reply, Sir, not being an economist, is that of the practical man who can only claim common sense as his guide and authority.

Firstly, I would say that if, as a result of preferences obtained in Great Britain, I was able to sell more in that country and found there a larger, a more secured and sheltered market, then surely my capacity to meet competition elsewhere in that commodity would be all the stronger. Secondly, I would point out that an increase in our purchases from the United Kingdom need not necessarily mean a diminution of our purchases from foreign countries, nor a diminution of our sales to foreign countries. My conception of the cycle of economic cause and effect is entirely different to that of the opponents of the Agreement. They are entirely obsessed by a purely static idea of trade. To them its quantity and volume are fixed; if we sell more to one country, we must sell less to another, and if we buy more from one country we must buy less from another. If, Sir, this were correct, then surely it would put an end to all advancement and all progress. I place before the House the dynamic view of trade. If, as a result of these preferences, I am able to sell more to the United Kingdom, then surely my purchasing power is increased, and, with every increase in my purchasing power, I set in motion forces which induce wider and still wider markets for my goods.

Another typical instance I would take concerns the market for our agricultural produce. My Honourable friend, Mr. Burt, has dealt very conclusively with the case of agriculture. But, Sir, the position of the opponents of the Agreement in respect of the agriculturist, and the producer of primary products is so astonishing that I cannot refrain from summarising and paraphrasing it for the benefit of the House.

[At this stage Mr. President (The Honourable Sir Ibrahim Rahimtoola) vacated the Chair which was occupied by Mr. Deputy President (Mr. R. K. Shanmukham Chetty).]

As far as I understand their case, it is this. They say that an increased foreign market would be of little value to us, because the higher prices that might thereby be obtained might not filter down to the actual producer. Further, they contend, that the economic limit of agricultural production has been reached, and in any case they say that we want and can ultimately make use of all the produce of this country in the country itself. Sir, it appears to me that for sheer cynical indifference to the interests of the agriculturist this last statement would be difficult to beat. I may, I think, fairly contend that in view of the many millions of acres which have been added and are being added and will be added under the great new irrigation systems to the irrigable area of this country, in view of the millions of acres which are still available for cultivation and are still lying waste, in view of the improvements which are being made from year to

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year in agricultural practice as a result of science and research, the assumption that the economic limit of agricultural production has been reached needs more conclusive justification than the *ex cathedra* statements of economists who are bent upon establishing their case. I will leave it to the agricultural interests in this House to say whether it is not wider markets that are needed and urgently needed, for the agricultural produce of this country, and whether it is not just those wider markets that we are attempting to make available under this Agreement.

Sir, underlying many of the speeches that have been made in this House there appears to me to be an earnest desire to be assured that the interests of this country are being placed first in the framing of our fiscal and our tariff policy. If that is so, Sir, then my Honourable friends opposite and I are on common ground; there is absolutely no difference between us. I have always contended that my position has been based upon what I deem to be the interests of this country. The most hostile critics of the Agreement have admitted that the rejection of this Agreement will entail definite loss to this country. Those same critics have admitted that its acceptance must result in benefit to this country, though they attempt to outweigh those benefits by problematical losses in other directions. Am I not justified, then, Sir, in contending, as I have done, that we should be acting contrary to our own interests if we refused to avoid certain injury, if we refused to accept the prospect of certain advantages for fear of incurring conjectural losses? If those losses actually materialise, if we found ultimately that they were of so serious a nature as to justify an abandonment of the policy of reciprocal preferences, then, Sir, the way is open for us. I know that much doubt has been expressed in this House as to the value of the six months' notice clause in the Agreement. I think it was my friend, Mr. James, who pointed out on the last occasion what Sir Herbert Samuel, who had been frequently referred to in the course of the debate, said in Parliament on this point. I have now a copy of Hansard here and I should like to quote to the House the actual words employed by him. He said:

"Before that I was anxious to say that in one of those treaties embodied in this blue-book, in the Indian treaty, there is a provision to this effect: 'This agreement between His Majesty's Government in the United Kingdom and the Government of India shall continue in force until a date six months after notice of denouncement has been given by either party'. So it may not be so very wrong and so very foolish to suggest that with the Dominions' agreement also the same provision should be inserted."

Then he goes on to say again:

"Therefore, there can be no insuperable reason why, if the opinion of this House were unanimous, Government should not accept that proposal and ask the Canadian Government to agree to the insertion in the agreement of the provision, word for word, which has been inserted in the Indian agreement."

Opposition Members, Sir, who appealed to the authority of Sir Herbert Samuel will, I hope, accept his authority on this point as well.

The Leader of the Independent Party criticised with considerable warmth what he thought was the procedure that had been adopted by Government in preparing their case for Ottawa. The facts of the case are simple and I should like to give them to this House. Two days after Sir George Rainy had announced that the Government of India had accepted the invitation to go to Ottawa, a fully explanatory circular letter was addressed to all Chambers of Commerce, Trades Associations and

Local Governments asking for their proposals and suggestions in regard to matters to be discussed at Ottawa. Of the replies received some were useful; others were not; some dealt with the question on its merits; others refused to have anything to do with it on political grounds; but I can assure this House that it is quite contrary to fact to suggest that commercial opinion in this country was not allowed an opportunity of expressing itself. Further, we informed commercial organisations that commercial and industrial interests could send observers or representatives to Ottawa, a course which was followed by the United Kingdom and by the Dominions. My Honourable friend, the Leader of the Independent Party, asked why, before we granted preferences to Great Britain in this country, we had not consulted industrial interests here. I venture to submit to him that had he looked for it he could have found the answer for himself. In a nutshell it is this: the object of the question is evidently to suggest that we have entirely ignored the interests of our Indian industries. I would say that that suggestion is wholly without foundation.

[At this stage Mr. President (The Honourable Sir Ibrahim Rahimtoola) resumed the Chair.]

We have safeguarded the interests of those industries which have been given protection and those which may hereafter be given protection under our policy of discriminating protection. I may say that that policy stands and that nothing in the Agreement will be allowed to come in the way of the practical application of that policy. My Honourable friend has, I think, forgotten the fact that we have in no case promised Great Britain free entry or a particular rate of duty, but only a margin of preference so that it is entirely open to us to levy what rate of duty we think fit on any particular commodity. I would suggest to my Honourable friend that when people are determined to find sinister or questionable intentions, it is the easiest thing in the world to find them, to see them behind every act and every word that may be used by those whom they are determined to criticise. My only prescription for this form of opthalmic disease is that my Honourable friends should discard the glasses darkened by suspicion which they are now using to look at everything which pertains to this Agreement.

Much has been made of the fact that the Members of this House who found a place on the Ottawa Delegation were not elected by the House. As far as I know, no Delegation was elected by anybody at Ottawa; but I do submit respectfully to this House that it is a terrible commentary upon the public life of this country, if it is possible for anyone to suggest that an elected Member of this House ceases to command public confidence, simply because he discharges a public duty and a public service at the request of Government. I am afraid that a good many Members of this House may have been influenced by the fact that many commercial bodies in this country have declared against the Agreement. I would ask the House to consider the facts of the case. Some of the most important of these bodies which vehemently, and without reserve of any sort, proclaimed their opposition on political grounds to any Agreement before one had been entered into or even discussed, now proceed to assess the economic merits of an Agreement which they have all along condemned root and branch. I ask this House whether, in these circumstances, it is possible for these bodies to free themselves from all bias—unconscious if you like—and become dispassionate and impartial critics of that Agreement. I want to make

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it clear that I attribute motives to no one; but I do assert that the verdict passed by these bodies on this Agreement is irretrievably tainted by the views previously held and expressed, and I would ask Members of this House not to allow their independence of judgment to be influenced by views proceeding from such sources. As to the recommendations of the Committee appointed by this House, I need say only very shortly that I accept them and I accept the amendment of my friend, Sir Hari Singh Gour. I would like here to add one word and that is that I am in entire sympathy with what I take to be the object which induced my Honourable friends, Dr. Ziauddin Ahmad, and Sir Zulfiqar Ali Khan, to write their respective minutes. Government will consider most carefully the best method of ensuring that the utmost possible advantage is taken of the new openings for our agricultural and other industries.

I come lastly to the amendment moved by my Honourable friend, Mr. Das, who, I regret, is not here. Mr. Das was not concerned with the economic merits of the Agreement; he wished the question of its acceptance or its rejection to be decided purely on political grounds. Now, I would submit that the position that political considerations must override all others entails as a corollary the position that economic consequences are of minor moment. But I would remind this House that some one must pay the price and it will be a vicarious payment. It will not be my Honourable friend, Mr. Das, who will pay. The consequences of the Import Duties Act would have waited for no one and what, in effect, my Honourable friend, Mr. Das, says to the Indian agriculturist, the Indian trader and the Indian industrialist is this: "Courage, my friend; it may be true that you may suffer losses; that your trade may be restricted and your markets may be lost; but we hold unimpaired the power of entering into a Trade Agreement and if that is no consolation to you in your losses, it may be to those who step over your bankrupt bodies and come after you". I ask the House whether we have not chosen the better way, for we have attempted, and I hope successfully, to save these people from these losses and we have left unimpaired for all practical purposes the power referred to.

My old friend, Diwan Bahadur Rangachariar, said, by concluding this Agreement, you have taken away the only bargaining factor we possess, the only *quid pro quo* which we have to offer for political advance. I would say to him, if you really think that the power of concluding a Trade Agreement is a bargaining factor, have we in any way impaired that factor by what we have done? Surely Article 14 is a complete reply to that accusation. But, Sir, I would ask the House whether it is not possible for us to view this question in entirely different perspective? Must we always talk in terms of war and strife, of bargains and conditions? If we can now talk the language of co-operation in the world of commerce and trade, may it not help a better understanding in the settlement of those great constitutional issues which are now awaiting final conclusion? (Applause from all sides of the House.)

Perhaps, Sir, the House will permit me to end on a personal note. My Honourable friend, Diwan Bahadur Rangachariar, said that it was an irony of fate that it should be left to the first Indian Commerce Member to introduce a measure of this character. Let me assure the House that Indian Members of Council, when they enter upon office, do not leave their consciences in the ante-chamber. (Applause.) I have

made no extravagant claims for this Agreement. I have indulged in no glowing prophecies for the future. I have told what I consider to be the plain and simple truth. I have said that we stand to lose and lose definitely if we do not accept this Agreement, that we stand to gain and gain definitely if we accept this Agreement, and that time alone can show whether any losses, which we cannot foresee at present, will outweigh the gains which we can. If, Sir, I had not honestly felt that I could wholeheartedly support this Agreement, then the task of introducing these measures would have fallen on other shoulders. (Applause.) I do ask the House most earnestly, emphatically by its vote, to endorse the acceptance of this Agreement. (Applause from all sides of the House.)

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The amendment that the Chair now puts to the House is:

"That after the words 'the 22nd September, 1932,' the words 'and approving the Report of the Committee set up by this Assembly on the 10th November,' be inserted, and that, at the end of the Resolution, the following be added:

'and further that he do give effect to the recommendations of the said Committee'."

The Assembly divided:

AYES—74.

Abdoola Haroon, Seth Haji.	Metcalf, Mr. H. A. F.
Abdul Hye, Khan Bahadur Abul	Mitchell, Mr. D. G.
Hasnat Muhammad.	Mitter, The Honourable Sir
Acott, Mr. A. S. V.	Brojendra.
Ahmad Nawaz Khar, Major Nawab	Mody, Mr. H. P.
Ahmed, Mr. K.	Moore, Mr. Arthur.
Allah Baksh Khan Tiwana, Khan	Morgan, Mr. G.
Bahadur Malik.	Muazzam Sahib Bahadur. Mr.
Amir Hussain, Khan Bahadur Saiyid.	Muhammad.
Anwar-ul-Azim, Mr. Muhammad.	Mujumdar, Sardar G. N.
Bajpai, Mr. G. S.	Mukherjee, Rai Bahadur S. C.
Bhore, The Honourable Sir Joseph.	Nayudu, Rao Bahadur B. V. Sri Hari
Bower, Mr. E. H. M.	Rao.
Burt, Mr. B. C.	Nihal Singh, Sardar.
Chetty, Mr. R. K. Shanmukham.	Noyce, The Honourable Sir Frank.
Chinoy, Mr. Rahimtoola M.	Pandit, Rao Bahadur S. R.
Dalal, Dr. R. D.	Parma Nand, Bhai.
DeSouza, Dr. F. X.	Puri, Mr. Goswami M. R.
Dudhoria, Mr. Nabakumar Sing.	Rafuddin Ahmad, Khan Bahadur
Dunn, Mr. C. W.	Maulvi.
Dutt, Mr. G. S.	Rajah, Rao Bahadur M. C.
Fazal Haq Piracha, Shaikh.	Rajan Bakhsh Shah, Khan Bahadur
Fox, Mr. H. B.	Makhdum Syed.
Gour, Sir Hari Singh.	Ranga Iyer, Mr. C. S.
Greenfield, Mr. H. C.	Rastogi, Mr. Badri Lal.
Gwynne, Mr. C. W.	Rau, Mr. P. R.
Haig, The Honourable Mr. H. G.	Ryan, Mr. T.
Hezlett, Mr. J.	Sarma, Mr. R. S.
Hossack, Mr. W. B.	Schuster, The Honourable Sir George.
Hudson, Sir Leslie.	Scott, Mr. J. Ramsay.
Ishwarsingji, Nawab Naharsingji.	Shafee Daoodi, Maulvi Muhammad.
Ismail Ali Khan, Kunwar Hajee.	Sher Muhammad Khan Gakhar,
Ismail Khan, Haji Chaudhury	Captain.
Muhammad.	Singh, Kumar Gupteshwar Prasad.
James, Mr. F. E.	Singh, Mr. Pradyumna Prashad.
Jawahar Singh, Sardar Bahadur	Sorley, Mr. H. T.
Sardar.	Suhrawardy, Sir Abdulla-al-Mamun.
Lal Chand, Hony. Captain Rao	Tottenham, Mr. G. R. F.
Bahadur Chaudhri.	Wilayatullah, Khan Bahadur H. M.
Mackenzie, Mr. R. T. H.	Yakub, Sir Muhammad.
Macqueen, Mr. P.	Yamin Khan, Mr. Muhammad.
Meek, Dr. D. B.	Ziauddin Ahmad, Dr.
	Zulfiqar Ali Khan, Sir.

NOES—27.

Abdul Matin Chaudhury, Mr.
 Abdur Rahim, Sir.
 Anklesaria, Mr. N. N.
 Azhar Ali, Mr. Muhammad.
 Bhuput Singh, Mr.
 Dutt, Mr. Amar Nath.
 Gunjal, Mr. N. R.
 Jadhav, Mr. B. V.
 Jog, Mr. S. G.
 Krishnamachariar, Raja Bahadur G.
 Lalchand Navalrai, Mr.
 Liladhar Chaudhury, Seth.
 Maswood Ahmad, Mr. M.
 Miara, Mr. B. N.

Mitra, Mr. S. C.
 Murtaza Sahab Bahadur, Maulvi
 Sayyid.
 Pandian, Mr. B. Rajaram.
 Patil, Rao Bahadur B. L.
 Sadiq Hasan, Shaikh.
 Sant Singh, Sardar.
 Sarda, Diwan Bahadur Harbilas.
 Sen, Mr. S. C.
 Sen, Pandit Satyendra Nath.
 Singh, Mr. Gaya Prasad.
 Sitaramaraju, Mr. B.
 Thampan, Mr. K. P.
 Uppi Sahab Bahadur, Mr.

The motion was adopted.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The original Resolution, as now amended, becomes the substantive proposition, and the Chair will now place before the House the amendments which were moved on the original Resolution. The question which I have now to put is:

"That for the original Resolution the following be substituted:

"This Assembly, before accepting the Trade Agreements made by the Government of India with His Majesty's Government in the United Kingdom, which was signed at Ottawa on the 20th August, 1932, and the Supplementary Agreement regarding iron and steel contained in the correspondence between Sir George Rainy and Sir Horace Wilson, dated the 22nd September, 1932, recommends to the Governor General in Council to refer the matter to the Tariff Board for the purpose of examining the said agreements so that if, on the report of the Tariff Board, the Indian Legislature were to come to the conclusion that the acceptance of the said Agreements are in the interests of India, this Assembly will recommend to the Governor General in Council to introduce such legislative measures as it might deem to be necessary and this Assembly further requests the Governor General in Council to request His Majesty's Government to postpone the operation of the Import Duties Act in the meantime."

The motion was negatived.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The next amendment which the Chair will put to the House is:

"That for the original Resolution the following be substituted:

"Having considered the papers on Ottawa Agreement, this Assembly recommends to the Governor General in Council that he be pleased:

- (a) to convey to His Majesty's Government that India is not prepared to consider any proposal for reciprocal trade benefits with the United Kingdom till such time as India is not given Responsible Self-Government; and
- (b) to convey to the Colonial Empire that no Trade Agreement will be entered into or Tariff concessions granted to any Colony which does not concede to Indians settled in their territory equal rights of citizenship."

The motion was negatived.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The next amendment which I will put to the vote of the House is:

"That for the original Resolution the following be substituted:

"That the Ottawa Trade Agreement between India and other countries of the British Empire be referred for scrutiny and report to a Committee of the Legislative Assembly consisting of the Honourable Sir Joseph Bore, Dr. D. B. Meek, Sir Hari Singh Gour, Mr. R. K. Shanmukham Chetty, Mr. B. Das, Sir Abdur Rahim, Mr. B. Sitaramaraju, Seth Haji Abdool Haroon, Sir Zulfiqar Ali Khan, Mr. G. Morgan, Mr. Muhammad Yamin Khan and the mover, with powers to co-opt not more than six specialists including persons interested in the industries affected by the Agreement; and to avoid duplication in trade, this Assembly recommends to the Governor General in Council not to introduce a Bill to amend the Indian Tariff Act of 1924, if the report of the Committee has been adopted by the Assembly.

This Assembly further requests the Governor General in Council to urge on the British Government to suspend the operations of the Import Duties Act till this House has given its decision on the Agreement."

Dr. Ziauddin Ahmad: I beg leave to withdraw the amendment.

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

Mr. President (The Honourable Sir Ibrahim Rahimtoola): I shall now put the Resolution, as amended, as a substantive proposition to the House.

The question is:

"That this Assembly, accepting the Trade Agreement made by the Government of India with His Majesty's Government in the United Kingdom, which was signed at Ottawa on the 20th August, 1932, and the supplementary Agreement regarding iron and steel contained in the correspondence between Sir George Rainy and Sir Horace Wilson, dated the 22nd September, 1932, and approving the Report of the Committee set up by this Assembly on the 10th November, recommends to the Governor General in Council that he do introduce in the Indian Legislature at the earliest possible moment such legislative measures as may be necessary to give effect to the Agreements in question, and further that he do give effect to the recommendations of the said Committee."

The Assembly divided:

AYES—77.

Abdool Haroon, Seth Haji.
 Abdul Hye, Khan Bahadur Abul
 Hasanat Muhammad.
 Acott, Mr. A. S. V.
 Ahmad Nawaz Khan, Major Nawab.
 Ahmed, Mr. K.
 Allah Baksh Khan Tiwana, Khan
 Bahadur Malik.
 Amir Hussain, Khan Bahadur Saiyid.
 Anklesaria, Mr. N. N.
 Anwar-ul-Azim, Mr. Muhammad.
 Bajpai, Mr. G. S.
 Bhowe, The Honourable Sir Joseph.
 Bower, Mr. E. H. M.
 Burt, Mr. B. C.
 Chetty, Mr. R. K. Shanmukham.
 Chinoy, Mr. Rahimtoola M.
 Dalal, Dr. R. D.
 DeSouza, Dr. F. X.
 Dudhoria, Mr. Nabakumar Sing.
 Dunn, Mr. C. W.
 Dutt, Mr. G. S.
 Fazal Haq Piracha, Shaikh.
 Fox, Mr. H. B.
 Gour, Sir Hari Singh.
 Greenfield, Mr. H. C.
 Gwynne, Mr. C. W.
 Haig, The Honourable Mr. H. G.
 Hezlett, Mr. J.
 Hossack, Mr. W. B.
 Hudson, Sir Leslie.
 Ishwarsingji, Nawab Naharsingji.
 Ismail Ali Khan, Kunwar Hajee.
 Ismail Khan, Haji Chaudhury
 Muhammad.
 James, Mr. F. E.
 Jawahar Singh, Sardar Bahadur
 Sardar.
 Jog, Mr. S. G.
 Lal Chand, Hony. Captain Rao
 Bahadur Chaudhri.
 Liladhar Chaudhury, Seth.
 Mackenzie, Mr. R. T. H.
 Macqueen, Mr. P.

Meek, Mr. D. B.
 Metcalfe, Mr. H. A. F.
 Mitchell, Mr. D. G.
 Mitter, The Honourable Sir
 Brojendra.
 Mody, Mr. H. P.
 Moore, Mr. Arthur.
 Morgan, Mr. G.
 Muazzam Sahib Bahadur, Mr.
 Muhammad.
 Mujumdar, Sardar G. N.
 Mukherjee, Rai Bahadur S. C.
 Nayudu, Rao Bahadur B. V. Sri Hari
 Rao.
 Nihal Singh, Sardar.
 Noyce, The Honourable Sir Frank.
 Pandit, Rao Bahadur S. R.
 Parma Nand, Bhai.
 Puri, Mr. Goswami M. R.
 Rafiuddin Ahmad, Khan Bahadur
 Maulvi.
 Rajah, Rao Bahadur M. C.
 Rajan Bakhsh Shah, Khan Bahadur
 Makhdam Syed.
 Ranga Iyer, Mr. C. S.
 Rastogi, Mr. Badri Lal.
 Rau, Mr. P. R.
 Ryan, Mr. T.
 Sarma, Mr. R. S.
 Schuster, The Honourable Sir George.
 Scott, Mr. J. Ramsay.
 Shafee Daoodi, Maulvi Muhammad.
 Sher Muhammad Khan Gakhar,
 Captain.
 Singh, Kumar Gupteshwar Prasad.
 Singh, Mr. Pradyumna Prashad.
 Sorley, Mr. H. T.
 Suhrawardy, Sir Abdulla-al-Mamun.
 Tottenham, Mr. G. R. F.
 Wilayatullah, Khan Bahadur H. M.
 Yakub, Sir Muhammad.
 Yamin Khan, Mr. Muhammad.
 Ziauddin Ahmad, Dr.
 Zulfiqar Ali Khan, Sir.

NOTES—25.

Abdul Matin Chaudhury, Mr.
 Abdur Rahim, Sir.
 Azhar Ali, Mr. Muhammad.
 Badi-uz-Zaman, Maulvi.
 Bhuput Singh, Mr.
 Dutt, Mr. Amar Nath.
 Gunjal, Mr. N. R.
 Jadhav, Mr. B. V.
 Krishnamachariar, Raja Bahadur G.
 Lalchand Navalrai, Mr.
 Maswood Ahmad, Mr. M.
 Misra, Mr. B. N.
 Mitra, Mr. S. C.

Murtaza Sahab Bahadur, M.A.
 Sayyid.
 Pandian, Mr. B. Rajaram.
 Patil, Rao Bahadur B. L.
 Sadiq Hasan, Shaikh.
 Sant Singh, Sardar.
 Serda, Diwan Bahadur Harbilas.
 Sen, Mr. S. C.
 Sen, Pandit Satyendra Nath.
 Singh, Mr. Gaya Prasad.
 Sitaramaraju, Mr. B.
 Thampian, Mr. K. P.
 Uppi Sahab Bahadur, Mr.

The motion was adopted.

The Assembly then adjourned till Eleven of the Clock of Wednesday the 7th December, 1932.

LEGISLATIVE ASSEMBLY

Wednesday, 7th December, 1932.

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

QUESTIONS AND ANSWERS.

TRANSFER ORDERS OF THE DISTRICT INSPECTOR OF SCHOOLS, DELHI.

1602. *Bhai Parma Nand: (a) Is it a fact that the transfer orders of the District Inspector of Schools, Delhi, were issued by the Director of Public Instruction, Punjab, in view of his staying in Delhi for over five years, but the transfer has not been effected? If the reply to the above question be in the affirmative, will Government state the reasons why he is retained? Is it a fact that there is a Government circular under which no member of the Inspecting Staff should be kept for more than three years at a particular station?

(b) Has the attention of Government been drawn to the articles which appeared in the *Hindustan Times*, dated the 19th November, 1932, and the *Daily Tej* regarding the partial treatment of the District Inspector of Schools towards his co-religionists?

Mr. G. S. Bajpai: (a) The reply to the first part of the question is in the negative. The second part does not arise. As regards the third part I would refer the Honourable Member to the reply given by the Honourable Sir Fazl-i-Husain in this House on the 17th September, 1931, to his starred question No. 509.

(b) Yes. The articles referred to do not contain any allegation of bias specifically against the District Inspector of Schools.

GAZETTED STAFF OF THE EDUCATION DEPARTMENT OF DELHI.

1603. *Bhai Parma Nand: Is it a fact that the gazetted staff of the Educational Department of Delhi consists of Christians and Muhammadans only? If so, how is it that the Hindus who form the majority community of the Delhi Province have been denied representation in that department? What action do Government propose to take in this matter?

Mr. G. S. Bajpai: There are only three whole-time gazetted officers in the Education Department of Delhi, besides the Superintendent of Education, who is in charge of the Education Departments in three centrally administered areas, viz., Delhi, Ajmer-Merwara and Central India, and who is an Indian Christian. Of these, the Assistant Superintendent for Girls' Education is a Christian and the District Inspector of Schools and the Headmaster, Government High School, Delhi, are Muslims. The present incumbents of the two last mentioned posts are the first Muslims to hold these posts permanently. Before their appointments the two posts had for many years been held by Hindu officers. Honourable Member will appreciate that postings of educational officers cannot be made exclusively with regard to communal considerations.

TEXT BOOK COMMITTEE OF THE DELHI PROVINCE.

1604. *Bhai Parma Nand: Is it a fact that the Text Book Committee of the Delhi Province is composed of eight Muslims, six Christians and six Hindus? If so, why is it that the proportion of Hindus is kept so low?

Mr. G. S. Bajpai: No. The Text Book Committee of Delhi Province is composed of five *ex-officio* members of whom three are Muslims and two Christians, 11 elected members of whom six are Hindus, three Muslims and two Christians, and five members nominated by Government, of whom two are Hindus, two Muslims and one Christian. The total Hindu membership is, therefore, eight and not six, as against eight Muslims and five Christians.

TEXT BOOK COMMITTEE OF THE DELHI PROVINCE.

1605. *Bhai Parma Nand: (a) Is it a fact that in the sub-committees of the Text Book Committee, Delhi, the Hindus are only one-fourth, while three-fourths consist of non-Hindus in every sub-committee? Is it a fact that books written and published by Hindus do not find favour with the sub-committee? Is it a fact that the number of Hindu pupils of the schools in Delhi Province is more than two-thirds of the total?

(b) Will Government be pleased to lay on the table the list of books rejected and approved for the libraries with the remarks of the members for their rejection and approval within the last five years?

(c) Are Government prepared to take any step to remove the grievances of the Hindus? If so, when?

Mr. G. S. Bajpai: (a) No.

(b) A set of the circulars issued by the Text Book Committee during the last five years which gives a list of books approved and rejected has been placed in the Library. It is regretted that the Honourable Member's request to be supplied with the remarks of the various members of the Committee on the books accepted and rejected cannot be complied with as the compilation of such a record would involve an expenditure of time and labour out of all proportion to the value of the results achieved.

(c) In view of replies to (a) and (b), this does not arise.

TRAINING OF INDIAN NURSES IN THE LADY HARDINGE HOSPITAL, DELHI, AND THE LADY READING HOSPITAL, SIMLA.

1606. *Mr. Bhuput Sing (on behalf of Mr. S. G. Jog): (a) Will Government please state whether there are Training Schools, attached to the Lady Hardinge Hospital, Delhi, and the Lady Reading Hospital, Simla, for the training of Indian nurses? If so, how many nurses were trained during the last four years at Delhi and at Simla?

(b) Out of the total number of nurses trained at the Lady Hardinge Hospital, Delhi, and the Lady Reading Hospital, Simla, how many were Hindus, Christians, and Muhammadans and of other communities?

(c) Are they held eligible for promotion to "sisters of the Hospitals" or "matrons"? If so, after how many years? Will Government please state the names of matrons and sisters in the Lady Hardinge and the Lady Reading Hospitals, with their pays and other allowances attached to their posts?

(d) When are Indian nurses held to be eligible for promotion to 'Nursing Sisters', either in the nursing homes or in hospitals?

Mr. G. S. Bajpai: (a) Yes; 29 in Delhi and four in Simla.

(b) Christians 26, Muhammadans three, Hindu one and other communities three.

(c) Yes; provided that they have had the requisite training and have had experience as staff nurses in charge of wards. A statement giving the information asked for in the last part of the question is laid on the table.

(d) When they have completed successfully four years' training in a recognised training school for nurses, have passed any other examination prescribed by the hospital concerned and have had experience as staff nurses in charge of wards.

Statement showing the names, pay and allowances of the Matrons and Sisters of the Lady Hardinge Medical College Hospital, New Delhi, and Lady Reading Hospital, Simla.

Name.	Pay.	Allowances.			
		Diet.	Dhobis	Teaching.	Uniform.
LADY HARDINGE MEDICAL COLLEGE HOSPITAL, NEW DELHI.					
<i>Matron.</i>					
Miss L. M. Minchin . . .	Rs. 400 to 450 per mensem.	Rs. Nil	Rs. 5 per mensem.	Rs. Nil	Rs. 25 per quarter.
<i>Nursing Sisters.</i>					
Miss I. M. Reynolds . . .	200 to 250 per mensem.	50 per mensem.	"	"	"
Miss A. I. Massey . . .	"	"	"	"	"
Miss E. Mitchell . . .	"	"	"	"	"
Miss E. Harris . . .	"	"	"	"	"
Miss B. M. Barnham . . .	"	"	"	"	"
Miss Hastings-Price . . .	125 to 150 per mensem.	"	"	25 per mensem.	"
LADY READING HOSPITAL. SIMLA.					
<i>Matron.</i>					
Miss Mellowes . . .	250—15— 350.	50 per mensem.	6 per mensem.	"	8 per mensem.
<i>Assistant Matron.</i>					
Miss King . . .	170—10— 250.	"	"	"	"
<i>Sister.</i>					
Miss Bee . . .	150—5— 200.	"	"	"	"
<i>Temporary Sister. (9 months).</i>					
Mrs. Kellett . . .	150	"	"	"	"
<i>Junior Sister.</i>					
Miss Nath . . .	100	25 per mensem.	3 per mensem.	"	3 per mensem.

DEMAND OF SECURITY FROM THE KEEPER AND PRINTER OF THE NATIONAL CALL, AN ENGLISH DAILY TO BE STARTED FROM DELHI.

1607. *Mr. K. P. Thampan (on behalf of Shaikh Sadiq Hasan): (a) Will Government please state if, when the keeper, printer and publisher of the *National Call*, a new English daily, to be started at Delhi filed declarations under the Press and Registration Act of 1867, before the District Magistrate, he was asked to furnish securities of Rs. 1,000 each as keeper and printer of the *National Call* Press and newspaper separately?

(b) Will Government explain the reasons that weighed with the authorities concerned to demand security from a paper yet to be started?

The Honourable Mr. H. G. Haig: (a) Yes.

(b) Security was demanded under the provisions of sections 8 (1) and 7 (1) of the Indian Press (Emergency Powers) Act, 1931, as the District Magistrate had reason to believe that the person making the declaration had been associated with anti-Government activities.

Mr. Gaya Prasad Singh: Will Government kindly state if in the order of the District Magistrate specific reasons have been specified or not?

The Honourable Mr. H. G. Haig: I am afraid I am not in a position to say precisely what was specified in the order.

RE-EMPLOYMENT OF RETRENCHED PERSONNEL OF VARIOUS COMMUNITIES IN THE OFFICE OF THE ACCOUNTANT GENERAL, CENTRAL REVENUES.

1608. *Mr. Gaya Prasad Singh: (a) Is it a fact that in the office of the Accountant General, Central Revenues, members of various communities have not been re-employed in the same proportion in which they were retrenched in March, 1932? If so, do Government propose to take early steps for the re-employment of retrenched personnel of various communities in the same proportion in which they were retrenched?

(b) Is it a fact that some fresh recruits belonging to the minority communities, some of whom have not even passed the recruitment examination, have been appointed, whereas a large number of the retrenched personnel of the same office belonging to the majority community, and who have passed the recruitment examination, are still out of employment? If so, why?

(c) Is it a fact that in the case of the Accountant General, Bengal, definite instructions were issued that the retrenched personnel of the various communities should be re-employed in the same order in which they were retrenched? If so, will Government be pleased to state why a different practice has been followed in the office of the Accountant General, Central Revenues?

The Honourable Sir George Schuster: Enquiry is being made and a reply will be laid on the table in due course.

ENHANCEMENT OF FEE FOR THE REGISTRATION OF TELEGRAPHIC ADDRESSES.

1609. *Mr. Gaya Prasad Singh: (a) Is it a fact that in October, 1931, the fee for the registration of telegraphic addresses was enhanced from Rs. 15 to Rs. 25 per address per year, and from Rs. 7-8-0 to Rs. 15 for six months, in spite of the protests of the interests affected?

(b) Is it a fact that the enhanced rate was in force till the 15th August, 1932, but it was reduced to Rs. 20 per year from the 16th August, 1932?

(c) Will Government kindly state the revenue derived every year from these registrations during the five years previous to the enhancement of the rate, and how this revenue was affected by the increased fee; and what is the position now since the 16th August, 1932?

(d) Do Government propose to revert to the old rate in the interests of the trade and commerce of the country?

Mr. T. Ryan: (a) No. The enhancement was made first; the protests were received subsequently.

(b) The rate was reduced from the 10th August, 1932, after consideration of the protests to which reference has been made.

(c) The revenue derived from the registration of public abbreviated addresses during the five years 1926-27 to 1930-31 previous to the enhancement of the rates was in thousands of Rupees 463, 479, 486, 485 and 481 respectively. As a result of the enhanced fee introduced from October, 1931, there was an increase in revenue in 1931-32, the fees collected during the year being 531 thousands. As a result of the reduction from Rs. 25 to Rs. 20 in August, 1932, there has been some decrease in revenue but it is not possible to ascertain the full result of the change until it has been in force for at least a year.

(d) Having regard to the charges made for the registration of telegraphic addresses in other countries and the value of the concession to the public, Government are satisfied that a charge of Rs. 20 in India is moderate and do not propose to revert to the rate which was in force prior to October, 1931.

MISAPPROPRIATION CASES OF POSTAL OFFICIALS IN THE PUNJAB POSTAL CIRCLE.

1610. *Kunwar Hajee Ismail Ali Khan (on behalf of Mr. M. Maswood Ahmad): (a) Will Government be pleased to furnish the following information for the last three years so far as the Punjab Postal Circle is concerned:

- (i) the total number of cases of misappropriation by postal officers,
- (ii) the total number of postal officials prosecuted,
- (iii) the total number of officials convicted by courts, and
- (iv) the total number of officials discharged or acquitted?

(b) Will Government be pleased to state whether in the Punjab Postal Circle the courts held responsible for misappropriation persons other than those prosecuted by the department during the last three years?

(c) If the reply to part (b) be in the affirmative, will Government be pleased to state whether the officials actually held responsible were prosecuted by the department and, if not, why not?

(d) Will Government be pleased to state particulars of the officials referred to in part (b) above?

(e) Will Government be pleased to state whether the Postal officials acquitted by courts were re-instated in their posts forthwith and if not, why not? Is such re-instatement required by the rules?

Mr. T. Ryan: Information is being collected and will be placed on the table of the House in due course.

RECRUITS TO THE BRITISH ARMY IN INDIA AND BURMA.

1611. ***Mr. Nabakumar Sing Dudhoria:** Will Government be pleased to state:

- (a) the number of recruits that have been made to the British army intended to come out to India and Burma;
- (b) whether it is a fact that raw youths whose ages vary from 16 to 18 years have largely sought recruitment to such armies of late; and
- (c) if the answer to part (b) is in the affirmative, the percentage of youths of such ages in the already recruited armies?

Mr. G. R. F. Tottenham: (a) No portion of the British Army is specially recruited for service in India.

(b) Except for boys recruited for special purposes for example as buglers, the minimum age for recruits is eighteen years. Government have no information regarding the number of persons under that age who have attempted to enlist.

(c) Does not arise.

THE CRIMINAL LAW AMENDMENT BILL—concl'd.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Further consideration of the motion:

"That the Bill to supplement the Criminal Law, as amended, be passed."

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): Sir, I feel fortunate that I have to speak first on this Bill today. I am not used to give vent to expressions which are harsh or disagreeable, but I must, in my humble way, lay a strong protest against this Bill which is very drastic and oppressive. Sir, I, as a lawyer, know that there are sections in the Indian Penal Code dealing with waging war against the State, but I would like to know from the Honourable the Law Member or the Treasury Benches if there is any law which can apply to them when they wage war against the public and under what sections can they be punished? Sir, this is really waging war against the public so far as this Bill is concerned. It is not only a war with the Congress, it is not only with the parents and guardians, but it is a war with all people, inclusive of, I must say, the last but not the least, the Press of India. Sir, it appears to me that the claim that the Honourable the Home Member makes in this House that it is very necessary that this Bill should be enacted for the purpose of putting down civil disobedience has no foundation. I think it will suffice for me if I were to place before the House a contradiction to that statement in the pronouncement of His Excellency the Viceroy himself. In his speech on the 5th September, 1932, His Excellency said thus:

"The no-rent campaign in the United Provinces has died out and the red shirt movement in the North-West Frontier Province was rapidly brought under control. Over the greater part of India the mass of population is no longer concerned with the civil disobedience movement."

Sir, in the face of this statement and the fact that since then nothing has happened to show that this civil disobedience movement has revived, it does not appear to be necessary at all that this Bill should be enacted at a time when the new constitution is to come in. Sir, in certain quarters they very rightly think that the intention of the Government Benches is not to enact this Bill for the purpose of combating the civil disobedience movement, but to create a coercive measure for the purpose of making the country accept the constitution and work it under its fear. If that is the intention, it is not a laudable one at all. If the new constitution is bad, certainly it will not be worked; but if it is good, it will be worked and there will be no necessity of such Ordinances or Bills being passed. It is the good-will of the people that should be secured; it is not by coercive measures or by disastrous Acts that it can be obtained. I, therefore, submit that the very first basis for the passing of this Bill, namely, that there is necessity of putting down civil disobedience, falls through.

Then, Sir, considering the Bill, we find it very drastic. Waging war, as I said, has really been done in this case. There were several amendments, and very reasonable ones, put up in order to see that the rigour of this Bill was minimised, but one and all have been refused. That is the mentality with which this Bill is being passed. Then, there is a great fear that when a war has been waged in this House with the result that they have been able to pass this Bill, what will be the consequence of it, when it goes out into the country for being worked? We know how the unscrupulous police have worked the Ordinances, and unless a very vigilant eye is kept on the police and proper instructions are given to them, we will consider that the war will only begin when this Bill goes out into the country and is handled by the police. Sir, we know that armed with such powers, they will consider themselves the rulers of the country and they will say that they are the masters of all that they survey. They will use this Act in a manner which will be very objectionable; they will make *lathi* charges and will not hesitate to use their fire arms. Therefore, this law is likely to be used very wrongly and I think it behoves Government at least to see that the police make use of this Act moderately. The most important feature of the Bill is that Government have given all powers to the police. Whenever they were asked that the powers should be given directly by a complaint to a Magistrate, the reply was: "No; the Act will be minimised to such an extent that it will not serve its purpose." That is however not justifiable. Then, Sir, considering the Bill itself, what we find is that it is bad from the very beginning. Though it is styled to be temporary, it is not temporary when it has to live for three years.

Considering clauses 2 to 7, we find that their provisions are so worded that they will be misused. The words which were suggested in the amendments for improvement have all been refused. With regard to the picketing clause specially, I submit that it is a very hard one, when there is no demarcation line drawn, and it aims, as has been said by the Home Member, at putting down picketing of any nature, which is certainly unreasonable. With regard to this, I may mention an incident which happened the other day. While Mr. Jadhav was speaking on this clause, asking for its deletion, Rao Bahadur Captain Lal Chand got up to oppose Mr. Jadhav, and, Sir, what happened? The Press published all that he said in my name, and it was said in the papers that the opposition came

[Mr. Lalchand Navarai.]
from Mr. Lalchand Navarai. It was an unfortunate event and the correction, of course, came the next day, but the mischief was done. Sir, I assure the House and the Press that I cannot possibly go into the nominated shoes of Captain Rao Bahadur Lal Chand (Laughter) and I hope the Press will in future be careful to distinguish between me and the Rao Bahadur.

The Honourable Mr. H. G. Haig (Home Member): I hope the Honourable Member does not blame the Ordinances for that. (Laughter.)

Mr. Lalchand Navarai: Sir, I suggested that there ought to be a line drawn and that line should be that peaceful picketing of a harmless nature should be allowed. But that also has not been conceded. Then, with regard to clause 8 of the Bill, the parents have been made punishable, and the sympathy of the parents and guardians has no doubt to go away on that account.

Lastly, I would refer to the effect of it on the Press. Sir, the Press is powerful everywhere; it is the Press that governs the Governments in other countries. But here it is quite different, because here it is the foreign rulers who rule the Press and gag the Press so that the grievances of the public could not be ventilated. It may be that one or two papers committed mistakes, but on that account it cannot be held that the law must be so strict as to gag the entire Press of the country. The effect of this is to leave the currents to work underground. I submit that these drastic measures, which have been incorporated into this Bill, could not be introduced in any country where the Press makes public opinion. Here there has been a great check on the Press in giving utterances to grievances of even a reasonable nature. With these words, I oppose the passing of this Bill.

Sir Abdur Rahim (Calcutta and Suburbs: Muhammadan Urban): Sir, I cannot allow this Bill to pass on to the Statute-book without entering my final and most emphatic protest. Sir, the Bill has been discussed clause by clause, and I should be doing injustice to the House if I were to attempt to discuss the clauses over again. What I wish to point out is, and I do so with absolute confidence, that this is not merely bad law, but it purports to abrogate whatever rule of law we have, to regulate the political activities in this country; this measure seeks to substitute executive discretion and power for the judgment of the Courts.

Now, that is a thing which, I submit, cannot be justified at all. We have heard a great deal about what is called the dual policy. I say, that there can be no such thing as a dual policy. There can be only one policy—a policy either of progress towards freedom or going back towards obscurantism and bureaucracy. It is said that the new constitution will provide for responsible Government and, therefore, it is necessary that we should arm that Government with powers which will enable the Government to preserve law and order in the country. Is it necessary really to enact a law of this character in order to preserve law and order, to ensure peace in the country? I know that my Honourable friend, the Home Member, thinks that it is, but unless he is prepared to lay down that what his Government think is right, or that the Government are always right, and, therefore, popular opinion cannot count at all, then and then alone this Bill can be justified.

Only yesterday we heard a great speech from the Honourable the Finance Member who is just now not in his seat; it was a very eloquent speech appealing for co-operation and that appeal was very generously responded to even on this side of the House. May I ask, if today Government are prepared to respond to appeal for co-operation from this side of the House? Co-operation, if I understand the word at all, must be in the nature of participation in the counsels of Government. But how can there be any co-operation if the Government think that they are always in the right and they only ask us to endorse their policy? That is the state of things to which we are reduced at present. If this is co-operation, I am afraid that it will not advance any cause which even the Government may have in view. What we have been told and what lies underneath this measure is this: that the Congress is out for civil disobedience and we want a law of this character to check and suppress the manifestations of that movement. We have argued time after time and pointed out that provision after provision go far beyond the scope of any such measure. I have pointed out that there are sections in the Penal Code, the Criminal Procedure Code and the other penal laws by which it is possible for the Courts to deal with crimes which can be fairly described as civil disobedience. But the case of the Government, I understand, is: "No; that is not sufficient; the Courts are unable to deal with manifestations of civil disobedience; you must arm the executive with absolute discretion in the matter and you must oust the jurisdiction of the Courts, so that the civil disobedience movement can be effectively dealt with." That, Sir, is a proposition which we do not accept and which we dispute entirely. I have pointed out and it has been pointed out by other Honourable Members that the Government do not need such a law so far as activities in the nature of civil disobedience, or whatever it may be called, are concerned. Government can meet all these activities with the ordinary law, because the Congress policy is not to escape the law, but to face its penalties fully and, if necessary, to fill the jails. That is their policy. Since no such law as this is needed for that purpose, we argue that the object of this law is something else, it is something more; and that is, to strike at the political liberties and the political rights of the people in general. I notice in the papers that the Round Table Conference has sanctioned and has given their approval to the power of issuing Ordinances being retained by the Governor General; not only that, but that power is to be extended to the Governors of Provinces as well. Even that apparently is not sufficient

An Honourable Member: Ordinances for all time.

Sir Abdur Rahim: Yes; as has been rightly pointed out, the Governor himself can pass Acts. If this is not superseding the Legislature altogether, I should like to know what is. The Governors can pass Acts of their own without any reference to the Legislatures, without being under any necessity as at present for certifying legislative proposals which are submitted to the Legislatures and rejected by them. Even all that is not sufficient: we must pass laws in anticipation of the future Government which will give that Government absolute power to deal with the political rights and liberties of the people in any way they like. Now, I ask, is this the way by which the Government seek our co-operation? Is this the response which they give to the co-operation which was

[Sir Abdur Rahim.]

extended to them only yesterday? Today they have a splendid opportunity to give a proper answer to the gesture held out by my friend, Sir Hari Singh Gour, and some of his colleagues on the Nationalist Benches. I ask, if the Honourable the Home Member will rise to the occasion and persuade his Government that, after the way this Assembly has sanctioned the Ottawa Agreement, which must be of great economic advantage to Great Britain, when this Assembly has shown so much generosity at the sacrifice, as I think, at the great risk at any rate, to our own industries, will the Honourable the Home Member persuade his colleagues that now the time has come when they must adopt a different attitude? No, Sir, co-operation is sought only from us for all their measures. That is not the sort of co-operation which will improve matters. It will only show to the people that whatever we may do to comply with the wishes of the executive even in matters of the greatest importance, the executive are obdurate, they will not listen to any reason, they will not listen to any entreaties, to any supplications from the representatives of the people on this side of the House. They are bent upon pursuing their own course. They think that their judgment is infallible, they cannot go wrong, and whatever be the popular opinion, that must be wrong, and not they.

Now, Sir, that is not the attitude which will advance self-Government in the country or the smooth working of law and order. The Government should realise that they also can make mistakes at times. May I allude to what happened in connection with the scheme of the Simon Commission? Representatives of the people were called in conference by Lord Irwin, and they warned him emphatically and clearly that a proposal like that would not meet with the approbation of the people. A Commission like that could do no useful work, but he persisted in his course, and what was the result? We know that for nearly four years agitation has been going on growing in intensity every day, and yet we are no nearer the Constitution. It has not in any way tended to pacify the people. I say, it would be wise for the Government to listen to popular opinion at times. This is a measure which is opposed entirely to public opinion in the country, I mean the Indian public opinion. I have not seen in any newspaper or any speeches on any public platform supporting a measure of this character

An Honourable Member: What about the *Statesman*?

Sir Abdur Rahim: I said Indian public opinion.

An Honourable Member: What about the Bombay Council and the U. P. Council?

Sir Abdur Rahim: Sir, I am not an advocate, I could not possibly be an advocate of anything like civil disobedience movement, having spent my whole life on the Bench and the Bar throughout in helping the administration of law, but this is not the sort of law which will ensure peace and order in the country. It may suppress certain manifestations for the time being, but it will not ensure the smooth working of any constitution. That is my main objection to this Bill.

As regards my Muslim friends on my left, it was pointed out that only the other day in Chittagong how a certain section of the Muhammadan population of that town suffered at the hands of the police and the military. I think the Honourable the Home Member said that the account was not true. I have not seen the official denial, but I may remind him that an outrage of a far more serious character occurred in a village in Barisal not very long ago, an outrage which was described by the organ of the Labour Party in England as even worse than that of Jallianwala Bagh. We tried our best to obtain some remedy, some investigation into what happened, but no such inquiry was vouchsafed to us. Only a departmental inquiry was held, and nobody yet knows what the result of that departmental inquiry was. Sir, if you have a bad law, a law of general application which every law must be, its operations are bound to affect every community and every individual alike. The whole point, therefore, is, it is not a question between Hindus and Muhammadans or any other community or sect, but the only question is whether it is a good and proper law to have on our Statute-book. I know, Sir, communal feeling and communal distrust is so strong now that our decision on almost any question even though it has nothing whatever to do with any particular communities is deflected by that feeling. This is very unfortunate. It cannot be too strongly deprecated, but there it is. But I appeal to the Government that they should not take advantage of this feeling and thereby put on the Statute-book a law which cannot be justified in the light of reason or experience.

Sir, one last word of appeal to the Government. I know that appeals to the Government Benches coming from this side produce no effect, but yet I venture to suggest to the Government Benches that from my own experience of public life, a pretty long experience, I can assure them that a law of this character will not help in any way to achieve the object they have in view. The object they have in view is, I take it to ensure peace and order and progress in the country. If that is the object then a law of this character is bound to be resented by the people. The people are bound to think that this is a law passed by arbitrary authority against their interests, and if that is the popular feeling, if every Indian thinks like that or the bulk of Indians think like that, then, in that case, the Government cannot benefit by a law of this character. Sir, perhaps it is too late for the Government to reconsider their position. At the same time, it is in their power to see that the law, harsh as it is, arbitrary as it is, should be enforced with consideration and kindness towards the people, not with the object of suppressing their liberty, but with a view to seeing that only persons, who infringe the law, who do harm to the community, are dealt with under this law.

Mr. Arthur Moore (Bengal: European): I think that the Honourable the Law Member (the Leader of the House) and the Honourable the Home Member are entitled to be issued pilots' certificates, because their patience and skill have so far found a smooth passage for this controversial measure. My Honourable friend, Sir Abdur Rahim, has gone back to what he considers the original sin, the power to issue Ordinances, and he has criticised the fact that apparently at the Round Table Conference it is proposed that certain reserve powers of that character should exist under the new constitution. Well, my Honourable friend must know that those powers exist in every constitution in the world. He must know that in the

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[Mr. Arthur Moore.]

British Constitution there is not only such a thing as the Royal Prerogative (Laughter.)—the Royal Prerogative is a reserved power—there is also the power of issuing Orders in Council. But I would call the attention of my Honourable friend, Sir Abdur Rahim, to what the Government are actually doing, for I congratulate the Home Member and the Government that they have taken the bold constitutional course and have come to this House and asked it to pass this Bill, and have not been content to rely upon Ordinances. I would like also to congratulate the large majority of the House on the support which it has given to the Leader of the House and to the Home Member in their long and cheerful labours on behalf of what is essentially the cause of public security and tranquillity. I would say to my Honourable friend that I know of no better augury for the working of the new constitution than the obvious growth of the sense of responsibility, not only in this House but in the Provincial Legislatures. This is the same House which, in its first Session in January, 1931, by as large a majority as it has lately been giving to Government shelved the Bill for the suppression of outrages in Bengal, and was clearly hostile to the Press Bill and the Unlawful Instigation Bill, measures which the Government in fact withdrew. Sir, I think we have learnt our lesson, and I would call the attention of those Honourable Members opposite who still oppose the passage of this Bill to the fact that the Provincial Legislatures have been passing the Supplementary Security Bills by very large majorities, in some cases by clear unofficial majorities, and in some cases without even a division. Nor has this House ever within the last fifteen months refused to give the Government the necessary powers to deal with an abnormal situation. To my mind, recognising that the Legislatures of this country are very sensitive to public opinion, that is a convincing proof that His Excellency Lord Willingdon and his Government, and the Provincial Governments dependent on it, are correctly interpreting the wishes of the great majority of the citizens of this country in the firm stand that they have taken against the civil disobedience movement, and that the majority of the citizens of this country increasingly disapprove of lawlessness. But I will go further than that and say to my Honourable friend that the Legislatures, by the steady support that they are giving to Lord Willingdon, are going far to prove that those who fear to give the Indian Legislatures a greater measure of responsibility and to India a larger measure of self-Government, are wrong, and that the offer of responsibility does bring the sense of responsibility. One more point. The signatories to the Minority Report conclude their report with the observation that repressive measures have never been known to cure political discontent. Well, I do not think it has ever been suggested that this measure is designed either to kill or to cure the natural and proper aspirations of every self-respecting man in this country to see India a great, united and self-governing nation. As I understand it, the object of this Bill is to check those who seek to create a chaos that would wreck those aspirations. Those aspirations are being diligently pursued by British and by Indians in friendly counsel together in London. But in addition to securing a fair field for its successor there are constructive measures which the present Government can undertake in order to remedy discontent. I should like to give the strongest possible expression to the hope that in addition to passing this necessary security measure, the Finance Member will vigorously prosecute his scheme for the creation of an economic council and the undertaking of an economic

survey, and that the Provincial Governments will follow suit and undertake new and bold economic plans for the development of the resources of their provinces.

Maulvi Sayyid Murtuza Saheb Bahadur (South Madras: Muhammadan): Before recording my opposition to this Bill, I have to recite one Persian couplet and explain its meaning. It runs as follows:

*"Ba har range ki khâhi jâma mi posh,
"Mun andâze qadat ra mi shanâsam."*

It means, "You may put on various kinds of dress to evade identification, but I can, from your very stature, make out what you are and what you are about."

Sir, this Bill is going to be passed into law apparently with the object of suppressing the civil disobedience movement, but we on this side at any rate are strongly of opinion that it is to curb our elementary rights, to undermine nationalism in India, to muzzle the Press, and to torpedo public opinion. The object of the Government at the outset was to have a perpetual measure of this kind on the Statute-book. Fortunately for us the Select Committee did not approve of it. In this connection, I am of opinion that our friends who walked out of the Select Committee were not just in having done so. Had they remained in the Select Committee, they would have proved themselves more useful to the country than the course they resorted to.

Sir, the civil disobedience movement, when it was revived for the second time, I may say, was the result of unwise policy on the part of the Government. I will even go to the extent of saying that it would not have been revived had the present Government pursued the policy of Lord Irwin. When Gandhiji was prepared and even signified his willingness to extend the hand of co-operation, Government would not accept it on the plea that the no-rent campaign had already been started. We are of opinion that if an occasion had been offered for an interview between Gandhiji and Lord Willingdon, matters would have ended in a different way. The civil disobedience movement would not have been revived. It was said by the representatives of the Government that this measure was deemed highly necessary, rather indispensable for meeting the civil disobedience movement, but the other day my Honourable friend, the Secretary of the Nationalist Party, proved to the hilt that this movement was constitutional. The Law Member and the Home Member could not question the authority quoted by him. Of course, much stress was laid on the point that maintenance of law and order was quite necessary and, therefore, a measure of this kind was equally necessary, but legal luminaries, I mean the Leader of the Nationalist Party and the Leader of our Party, have thrown sufficient light on the point that no new laws were necessary to meet even the civil disobedience movement. Then, my Honourable friend, the Secretary of our Party, has shown with facts and figures and, with the help of photos, what kind of excesses were committed by the police and another friend, the Chief Whip of our Party, I mean Mr. Abdul Matin Chaudhury, also proved what atrocities were committed in the North-West Frontier and in Chittagong. I may bring to the notice of the Government that a challenge has been thrown to Sir Samuel Hoare by Miss Wilkinson on the Mardan incident. Mardan is a place which is supposed to be the centre of the Red Shirt activity.

Major Nawab Ahmad Nawaz Khan: You are referring to Charsadda.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order. Please resume your seat (addressing Major Nawab Ahmad Nawas Khan).

Maulvi Sayyid Murtaza Sahab Bahadur: Sir, I have to make only one observation in concluding my speech. Throughout this Bill, Sir, no spirit of accommodation was displayed either by the Honourable the Law Member or by the Honourable the Home Member, as was expected of them. Our friends behind do concur with me in this view. Now, will they go with me into the same Lobby as I go to? (Laughter.) Sir, very reasonable amendments were all rejected by Government. I associate myself with the Leader of my Party and the other speakers in requesting the Home Member to kindly see his way to mitigate the rigour of this Bill, if not in words, at least in actual practice. With these few words, I oppose the motion.

Dr. R. D. Dalal (Nominated Non-Official): Mr. President, I rise to support the third reading of this Bill—the Bill to supplement the Criminal Law. Sir, the main impression which emerges from the discussions on this Bill extending over several days is the vital necessity of preserving law and order. It is inconceivable that this Honourable House could disregard this Bill, the object of which is to ensure the maintenance of law and order. If, however, it does disregard the Bill, I fear it will arouse the derision of all civilized nations of the world, because it would imply that the Indian Legislative Assembly is in favour of anarchy, disorder, and terrorist crimes. (Mr. B. V. Jadhav: "Nothing of the sort.") I am strongly of the opinion that in the present deplorable circumstances this Bill is absolutely essential to the welfare of the people of India. I confess that it may not appeal to the Honourable Members whose vision is obsessed by suspicion, distrust, and misgivings. But, Sir, by bringing forward this Bill Government have only met a demand which has frequently been made to the effect that if emergency powers and special powers are required, they should be obtained by legislation. This Bill does not affect the law-abiding citizens. It will not do any harm to anyone who will not attempt to make orderly Government impossible. Sir, the Congress is admittedly the strongest and the best organised political force in India; and it has unquestionably succeeded in rousing the masses. This success is due very largely to the Vernacular Press. There is no doubt that a torrent of misrepresentation, perversion, and sheer invention has poured from the Vernacular Press. The vernacular newspapers have encouraged the spirit of lawlessness by praising to the skies every manifestation of defiance of the law, and have stimulated the centres in the occipital lobes of the cerebrums of their readers, that is to say, they have stimulated the lower passions of their readers by every means ranging from salacious advertisement to the condonation of murder. Mr. Gandhi, the Apostle of the boycott of British goods, is very keen on the advertisement of Indian goods. This idea goes no farther than the advice to buy British goods, which is common enough in England; and this Bill does not interfere in any way with this procedure. But it will be conceded that shopkeepers require protection from intimidation by picketers when leaflets are distributed falsely alleging that Manchester cotton goods are dyed with the blood and sized with the fat of cows and pigs. There is no burking the fact that in Guzerat, the chief centre of the so-called non-violent resistance to law, the boycott and intimidation

of officials and the incitement of the peasantry against payment of the Land Tax were carried very far. In normal times such intimidation can be dealt with by the ordinary law, but the widespread attempt to paralyse Government by the organisation of illegality has compelled Government to bring forward this Bill to protect officials and private individuals in the exercise of their lawful avocations and to protect the gallant and hard-tried police force from an incessant campaign of vilification and menace. Sir, I respectfully ask—does any right-minded Indian desire to return to the dreadful conditions of 1930 civil disobedience campaign, namely, the horrible carnage and bloodshed of Cawnpore, the ghastly tragedies at Sholapur, the dislocation of trade and business, hartals, frenzied appeals to boycott and obstruction, lathi charges, raids on salt pans, corrupting Frontier tribes, the looting and burning of foreign goods, murder, rape, and arson. If there is one thing which the people of India desire, it is to be saved from a repetition of the horrors of 1930. Sir, it has been urged that the fact that special powers are still necessary shows that the Ordinance X of 1932 has not met the civil disobedience movement and has failed in its purpose. I should have no difficulty at all to prove that the Ordinance X of 1932 has achieved a large measure of success, but as I deprecate long speeches, I shall bring my remarks to a close. Now, Sir, in conclusion I desire to refer to one important point, and it is this that every race and every class in India, deeply divided as they are in most respects, stand wholeheartedly together in their common desire for self-Government. To this end the British Government have pledged themselves, which is in line with the whole historic tradition of British statesmanship; and this pledge has been reiterated time and again. I am profoundly convinced that this Bill will allow the tender plant of responsible self-Government to grow and to develop from the various soils of British India and Indian States. I may add that this Bill will be a Monumental Bill to the eternal honour of the Honourable the Home Member for his efforts to deal with lawlessness, and that it will be remembered even when the necessity for it would not exist.

Mr. E. H. M. Bower (Nominated Non-Official): Sir, I rise to support this Bill. It is with great diffidence that I address the House. It is my first plunge into the stormy waters of debate, and in following so many experienced debaters I can only trust that Honourable Members will extend to me the indulgence that is usually accorded to one who is making his first speech in the House.

I represent, Sir, a community that has always stood for law and order and I also claim to speak as an Indian in the large sense of the word. I come from South India, where Anglo-Indians are considered by their Hindu and Muhammadan brethren as entitled not merely to a hearing, but to a friendly and a sympathetic hearing, on the problems that confront India. I claim the same sympathy and the same friendly hearing on the floor of this great House. If I should say anything that may seem to be diametrically opposed to the opinions of some of my Honourable friends opposite, I trust that they will consider that they are the utterances of one who was born in India, who has served India for over 34 years, and, above all, of one who loves India. Sir, as I listened to the speeches of so many of my esteemed friends opposite, I felt somewhat in the position of a very well-known young lady, Alice in Wonderland. Everything seemed to be topsyturvy. There was a feeling of unreality about the discussion. Member after Member got up and spoke of the perils to safety, and of

Maulvi Sayyid Murtuza Saheb Bahadur: Charsadda is a place near Mardan. I know as much geography as my Honourable friend knows. During the visit of the delegation to Mardan in the North-West Frontier Province, the delegation saw a completely unprovoked assault by the police on an unarmed and inoffensive crowd. The Political Agent asserted that the outrage had been committed not by the police, but by the Red Shirts dressed in stolen police uniform. Miss Wilkinson that morning asked the Inspector General of Police and the Deputy Chief Secretary and the Deputy Commissioner whether the statement of the Political Agent could be true. All replied: "Of course not." The Deputy Chief Secretary, according to Miss Wilkinson, added, if you had told us you were going there, we should have given clear instructions that beating should not take place while you were there. Miss Wilkinson challenged Sir Samuel Hoare to confirm or deny the story from official sources and it has not been denied as yet. In the face of such excesses, which are committed by the police, how will you be justified in arming the Government with additional power? It is good-will which is necessary to enlist the co-operation of the governed and not drastic measures of this kind. The Government should realise:

"Raiyyat chu bekh asto Sultan darakht."

The governed are like the roots of a tree and the Government may be compared to the tree. If the roots get weakened, the tree falls to the ground. If the Government create disaffection and ill-will, instead of good-will and affection with the governed, they cannot run the government smoothly.

Sir, the House may be aware of the fact that the present officiating Governor of the North-West Frontier Province, I mean His Excellency Mr. Cunningham, whom many of us had the honour and privilege of knowing personally, went on horseback travelling a distance of about 150 miles receiving Pathans, Khans, even of the place mentioned by my Honourable friend, Major Nawab Ahmad Nawaz Khan, which was a centre of "Red Shirt" activities. How was he received? He was received

12 Noon. warmly. He showed affection towards the governed, and they reciprocated the same feeling with due respect. Sir, the Government of India and also the Provincial Governments may take a lesson out of this incident and realise that affection breeds affection, good-will breeds good-will, and that without good-will and affection, they cannot go on governing India.

Sir, much stress was laid by my Honourable friends, the Law Member and the Home Member, on the point that the present Government were interested in this measure only because of two things—first, in order to maintain law and order and to leave a good legacy to the would-be Government of India, assuring us, at the same time, that the Government were ready to make over almost all of their powers to the new Government under the new constitution. Now, our Leader has shown as to what kind of power we are going to get under the new constitution. Sir, it is an illusory power—a power which will perpetuate the Ordinance-raj, a power which will undermine the very vitality of India, a power which will sap the whole of the Indian nation. (Hear, hear.)

Sir, the House is fully alive to the fact that dyarchy has proved an utter failure in many a province. Of course it proved successful, they say, in the province I come from, I mean Madras. But even there we know what kind of success the dyarchical form of Government has produced.

Now, so far as our Liberal friends are concerned, they thought at the outset that they could successfully carry on the administration under dyarchy, but very soon afterwards they all had to repent for having accepted office and they tendered their resignations, and we know what the evidence, that they gave before the Commission, was. They said, they were powerless, and that they could not do justice to their policies. Now, we are again going to have the dyarchical form of Government hereafter. Of course, the other day, it was shown that this measure is superfluous, and the only reason which was assigned by the Honourable the Law Member was that so far as picketing was concerned, the present law did not serve the purpose. But I would ask the Government as to under what law so many peaceful picketers have been and are being prosecuted? The fact goes to prove that the present law is quite sufficient to meet all these contingencies.

The Honourable Sir Brojendra Mitter (Law Member): No, Sir. They have been prosecuted under the Ordinance—not under the ordinary law.

Maulvi Sayyid Murtuza Saheb Bahadur: Our contention is that so far as peaceful picketing is concerned, there is nothing wrong in it. My Muslim friends should know that when prostitution was being picketed in Peshawar, they were not allowed to do that. I ask, how can any Muslim come forward now and say that prostitution and the liquor shops should not be picketed (Hear, hear) on religious grounds? Sir, prostitution and liquor shops should necessarily be picketed on religious grounds, as without that these vices must continue

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions: Muhammadan Rural): There is no such injunction of Islam that these things should be picketed. My Honourable friend is wrong.

Sir Abdulla-al-Māmūn Suhrawardy (Burdwan and Presidency Divisions: Muhammadan Rural): Is not the law of Islam enough to prevent Moslems from whore-mongering and wine-bibbing?

Maulvi Sayyid Murtuza Saheb Bahadur: If the laws of Islam cannot be enforced under the present Government, does it not become necessary that volunteers should come forward to help the Muslims in the observance of the laws of Islam?

Sir Abdulla-al-Māmūn Suhrawardy: Declare a *Jehad* and proclaim India *Darul Harb*.

Maulvi Sayyid Murtuza Saheb Bahadur: May I know, if my Honourable friend is prepared to declare a *Jehad*? Are you prepared to declare India, *Darul Harb*?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order. Please address the Chair.

Sir Abdulla-al-Māmūn Suhrawardy: I am prepared to follow a Muslim *Ameer* (Leader) and not a *Mushrik*.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): No interruptions, please.

Major Nawab Ahmad Nawaz Khan (Nominated Non-Official): With your permission, Sir, about the Peshawar picketing,

[Mr. E. H. M. Bower.]

the dangers to the public, underlying this Bill. Dangers to whom? One might think from the various speeches that the whole of India was in grave danger on account of the various clauses of this Bill. But what are the facts? Of the 352,800,000 people in India, something like 352,000,000 are either not affected by this Bill at all, or are protected by its provisions. Not one per cent., but one-hundredth part of one per cent. would furnish a figure far in excess of the number of people against whom this Bill is really aimed. I am not one of those who consider that every Congress member may be expected to actively dissuade his fellow countrymen from enlisting in the army. I do not consider that every Congress member is likely to wilfully disseminate false rumours with intent to alarm. But I do hold that in the ranks of the Congress there are many people who hold extreme views, men who live on the borderline of law and order, and who delight in occasional raids into the forbidden territories beyond. Perils to liberty,—liberty to do what? There is only one penal clause in this Bill which relates to what I might classify as a sin of omission, and that is the boycott. Every other penal clause relates to a definite sin of commission, an active thing, a thing done with deliberate intent to embarrass the Government and to interfere with the opinion of one's fellow-countrymen, and in some way, to prevent Government from carrying on their responsibilities in the control of law and order.

Sir, I shall not weary the House any longer. Honourable Members here are tired of the progress of the Bill, which has crept through this House on leaden feet, and I do think that Honourable Members would at this juncture appreciate far more than the highest flight of oratory, a brilliant flash of silence. Sir, I support this Bill.

Mr. Bhuput Sing (Bihar and Orissa: Landholders): Sir, even at this stage I rise to oppose this Bill as it is such a pernicious piece of legislation, although pernicious or odious does not sufficiently express its true character. Sir, despite the few nominal verbal changes and touching up with explanations and exceptions here and there, this Bill is still impregnated with the very spirit and essence of the odious Ordinances. A legislation which is on the face of it of so drastic a nature and is so thoroughly repressive in character should not have our sympathy and support. My own reading of this Bill is this: it aims at crushing all nationalistic movements everywhere; it intends to scotch all spirit of patriotism that is already abroad or may arise in the future. This Bill means to make positive inroads into our conceptions of private property and to penalise personal convictions and individual principles in matters concerning our vital interests. This Bill paves the way for the negation of all law and the institution of police and military in place of civil administration by effectively strangling the press, whose duty is to comment on the high-handedness of all sorts of public servants. This Bill in fact keeps the armoury ready to put down ruthlessly all manner of opposition that may arise when the next instalment of reforms proves disappointing, because my fear is that the coming instalment of reforms will be more unreal, more shallow, more superficial, more of an eye-wash than even what we have got at the present moment. This Bill would only fortify the future Government against all possible untoward contingencies that might occur in that event.

My Honourable friends, Sir Muhammad Yakub and Mr. Yamin Khan, have waxed themselves eloquent on the supposed or real misdeeds on the part of the followers of the Congress. I do not know whether my friends have knowingly or unknowingly or under inspiration attributed the causes for all the recent communal riots in this country entirely to the Congress movement. My Honourable friends conveniently brushed aside from their memory the orgy of plunder and carnage of the innocent Hindu population in Delhi after the execution of Imdad, the assassin of Swami Shradhananda, and the infernal riots that raged for over a week over the whole city, nothing of which by any stretch of imagination has up till today been set down to the Congress. Again, Sir, what harm was there if those people who imagined themselves to be coerced by the Congress people, as my Honourable friends have averred, had sought the protection of the police and the magistracy, instead of getting themselves inflamed at the behest of the non-Congress leaders and taking the law into their own hands and freely using their *lathis* and daggers on people indiscriminately and bringing about infernal disorder in the society? Do my Honourable friends seriously contend that the law of the land was not quite adequate to meet cases of complaint from those people who thought themselves in any way coerced by the Congress workers? Need I remind my over-zealous friends that when cases actually came up before the courts after the riots, the people that came to be convicted were 99 per cent. non-Congress men? Need I also tell my Honourable friends that when the authorities adopted preventive measures for the recurrence of the riots in the future, the people that they had to extern from the affected areas were all non-Congress workers, 99 per cent. of whom were disorderly bad characters and hooligans owning faiths different from that of the majority of Congress workers?

Sir, I cannot conclude my remarks here without quoting to my friends and others of their ilk what Father Verier Elwin says about the Congress in his most recently published book, "Truth about India: Can we get it?" published by the London firm of publishers, George Allen and Unwin, Ltd. The Father says this:

"We have indeed seen violence in its ugliest and most brutal form in India, but it has been on the part of the authorities, or of the communal partisans, not of Congress. Congress has, in fact, been the bulwark standing between the British official and the assassin. . . . Nothing could be more unfair, nothing could be meaner, than to lay responsibility for the terrorist outrages in Bengal at the door of the Congress. They have no connection whatever with the Congress."

Sir, I hope you will kindly bear with me if I propose to acquaint the Honourable House with what a body of people, whose opinions neither the Government nor the representatives of the people in this House can treat lightly, have to say on the Ordinances, out of which this Bill arises. I mean, Sir, what that band of Scottish missionaries, who are now at their homes, have recently written to the Members of Parliament representing their Scottish constituencies. The letter is dated Edinburgh, September 20, 1932. With your permission, Sir, I would now read a few passages from that momentous letter, as they are so very germane to our present purposes. The letter goes on thus:

"We, a group of Scottish missionaries serving or having served in India, at present in this country on furlough or retired, but in more or less intimate touch with India, acting in our individual capacity, desire to acquaint you with our feeling of distress over the present situation in that country."

[Mr. Bhuput Sing.]

We cordially appreciate the efforts which the National Government are making to expedite the attainment by India of real self-government, but we are persuaded that those efforts are doomed to disappointment unless the Administration abandon or greatly mitigate their present policy of government by Ordinances.

We are not of one mind as to the extent to which the Ordinances introduced eight months ago were necessary for the maintenance of order. But we are all agreed that these Ordinances have created bitter resentment amongst almost all classes of people, and—most ominous of all—amongst many who were previously consistently friendly in their attitude to Government.

Government by Ordinance has meant, among other things, arrest and detention in prison without trial. Such a method of administration is surrounded by many dangers, and in this country would not be tolerated. In India, owing to the difficulty sometimes experienced of getting witnesses to give evidence or a jury to convict, it has been felt to be on occasions and in places justifiable. Sir Tej Bahadur Sapru, leader of the Constitutional Moderates, admitted that special measures were necessary when, after referring to the 'futility and folly' of the course pursued by Congress on the one hand and by Government on the other, he said: 'Government could have carried public opinion with them if only the Ordinances were not so drastic and if their administration had been conducted on more reasonable and moderate lines'.

But amongst possible causes of bitterness, we specially deprecate the practice which has grown up of arresting people on suspicion and at the end of a few weeks releasing them with the order to report daily at the Police Office and when they fail to do so, sentencing them to one or two years' rigorous imprisonment in class C, which apparently means that they are placed among ordinary criminals on the lowest scale of diet."

The letter then goes on to say:

"You will remember that in the House of Commons Major Milner and Sir Ernest Bennett gave detailed evidence of such treatment. From our knowledge of India we are certain that what they said as to its disastrous effects is in no way exaggerated. However peaceful things may be on the surface, there is very great bitterness. There is danger too that the severity with which the passive resistance to propaganda has been put down may tend to encourage the more irresponsible sections of Indian society towards a belief in agitation of a more secret and violent nature, and thus in certain directions have the effect of increasing rather than of diminishing terrorist activity.

For some months past we have been working for such a change of policy as we here suggest. We hoped to see it effected without any combined public protest on our part. But, as our silence has been misunderstood, we ask you as the representatives of the Scottish people to give the facts we have submitted to your earnest consideration to use your influence to bring about the desired change. To give the matter greater publicity we are making this an 'open letter' and sending it to the press."

Among the signatories are such eminent people as Henry Lees Adamson, J. E. Copeland, Norah M. Lindsay, Elsie L. Mackenzie, James Mackintosh, N. Macnicol, R. M. Macpail, E. Forrester Paton, E. R. Sutherland, W. S. Sutherland and W. S. Urquhart. Some of these men, I need hardly remind the House, are *ex-Vice-Chancellors* of Indian Universities, Lord Bishops, Principals of Colleges, Heads of Medical Missions or otherwise quite high-placed in missionary life. The following note added to the letter is also significant. The note says:

"The terrorist movement in Bengal which every self-respecting Indian reprobates, should not be confused with the civil disobedience movement, or with the non-payment of rent and taxes campaign in the United Provinces which naturally Government strongly resented."

Next, Sir, Rev. C. F. Andrews, who is acknowledged a true servant of Christ and somewhat of a *persona grata* with the Government, both here and at home, in a very thoughtful article under the caption of "Asia in Revolution", published in the October number of the *Modern Review*, after setting forth his generalisations on the subject about what

is happening in other Asiatic countries, says about the Indian situation and particularly about the Ordinances as follows. Again, with your permission, Sir, I quote a few passages bearing on the subject, from that thought-provoking article:

"In India, there has happened an all-important event, which has distinguished that country from all others. The revolt against Europe, on behalf of the peasants, has been carried on without bloodshed under the leadership of one of the saintliest figures known in human history, Mahatma Gandhi. He has been the one prophet and inspirer, who has roused the Indian masses as they have never been stirred before. And in doing so, he has successfully tried to keep the revolutionary movement entirely peaceful at the very time that it is attempting to throw off the yoke and become free. Thus, India has stood before the world, in sheer moral strength, as no other country has ever done before seeking to win her freedom, not by the sword, but by suffering. Even though the ideal has been blurred and marred by internal conflict, its universal appeal to non-violence by means of tens of thousands, both men and women, suffering joyfully imprisonment, has had such a response throughout the whole of India, that it may well be regarded as in the end invincible. It has also stirred the conscience of the whole world."

Further on he says:

"Now at this moment, owing to this clash of forces and ideas there has come a terrible deadlock. Emergency ordinances of such a drastic nature have been decreed by the Viceroy to have the force of law, that in every province something equivalent to martial law prevails. In a free country like Great Britain it is impossible to conceive of such a state of things as this. Private houses can be entered without warrant and private persons can be arrested in the same manner. Trials can be conducted in secret."

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order. The Honourable Member is reading what has already appeared in all the newspapers. He should bring out the point he wishes to make in his own words. This is the second elaborate extract he is reading of matter which has appeared in every newspaper in India.

Mr. Bhuput Sing: I shall conclude now, Sir, in my own words: The effect of all these things, if the Ordinances and laws such as this remain on the Statute-book, will be that those who are now moderates and liberals will be converted into opposition; the police, when used in this punitive way, will get out of control. Trade with Great Britain will suffer worse than ever and the people themselves will refuse to buy anything British. The extreme revolutionary forces, which believe in violence rather than in non-violence, will get more and more in the ascendant. The British Government will be driven more and more to fall back upon the Muslim communal section and the landlords and princes. This will mean cleaving India in twain from top to bottom. In face of all that I have said above, I would be doing a distinct disservice to my country if I were to be a party to the passing of such a legislation as has formed the subject of such severe comments even at the hands of people who do not suffer and are not likely to suffer in any way from the Ordinance Bill.

Mr. Uppl Sahab Bahadur (West Coast and Nilgiris Muhammadan): Mr. President, I thought of recording a silent vote, but when I read this Bill again and again, I find I cannot give a silent vote. Today is a black day in the history of India, when we are going to pass a decree against ourselves and hand it over to the police to execute it. This Act is intended to restore peace and order in the country. It has been urged repeatedly on the floor of this House that peace and order in the country has been disturbed by the Congress, by Mahatma Gandhi and his followers. It is a common practice with powers that be to say about their weak opponents "give the dog a bad name and hang him". It is

[Mr. Uppi Sahab Bahadur.]

a common thing in the history of the world to say, if a man is in power, and if his opponent is weak and if the former wants to injure the latter, even if justice is on the other side, that the enemy is in the wrong.

There is a proverb in my part of the country that whether the Raja's cow falls into a tenant's well, or the tenant's cow falls into the Raja's well, in either the tenant is always in the wrong. That is always so. So also the trouble in this country has been attributed to the Congress and to the agitators. But really let us ask this question: if one Gandhi or even a hundred Gandhis were to go and ask the people to suffer like this, if they had no cause to suffer, will all these young men voluntarily go and suffer at the hands of the police? Certainly not. There is a carbuncle inside the body politic of India, and it must come out. It is the utter failure of the rule of the British Government for the last one hundred and seventy five years, the discontent caused by this is at the bottom of all this. The British economic policy has bled us white; their industrial policy has smothered our industries; their military policy has emasculated us. Herein lies the cause of the present unrest. People were fretting and fuming under the selfish rule, under the oppression, under the highhandedness of the British Government. We could not give vent to our feelings; we did not know what to do. Indian youngmen did not know what to do or how to give expression to their feelings of discontent and dissatisfaction. They were all along fretting and fuming, not knowing what to do. Here I am reminded of a Persian story which I read in an English book. There was a king who ruled his country very well. Everywhere in the country there was prosperity and contentment, and the people thought that the king was a god incarnate, and they began to worship him. When Satan saw that this king was being worshipped by millions of people as god, he became envious, and one day Satan, in the form of a snake, fell on the king and coiled round his neck and was about to give him a fatal bite. Then people immediately gathered, but did not know what to do. Whenever they attempted to kill the snake, he threatened to sting the king. Then astrologers were consulted. They suggested that the only way to save the king was to sacrifice a man everyday for the snake. Then arrangements were made to make sacrifices to save their king who was thought to be a god incarnate to those people. The prime minister came forward and sacrificed himself first, and every day this sacrifice went on. In the country every day for three or four months each family lost its flower, the best of its members. To save the life of one soul, hundreds of people suffered. One day it fell to the lot of the son of a poor blacksmith to be sacrificed, and he was carried away by the police to be sacrificed for the snake. This boy was the only mainstay of his father. The father did not know what to do. After some time he tore a piece from his loin cloth and put it on a piece of stick and ran through the bazar crying if there was anybody to follow him to kill the king who has been the cause of sorrow to hundreds. Then the whole mob went after him and killed the king as well as the snake. So is the case of India.

Sir, we are being emasculated by your military policy, we are being killed by your industrial policy, we are being starved on account of your economic policy, and we have been quietly suffering all these years. All our industries have been deliberately killed by your policy, now we are an emasculated, poverty-stricken people. We helped the British

Government during the Great War. India was the first to go to the front and save their country. We fought for whom? Not for India, but for the British Government. We were told that Britain was fighting for securing the liberty of the world, that it was a war to save humanity, but immediately after England won the war, what happened? She became arrogant, and what was the result? What was the reward that we got after she came out victorious? Immediately after the conclusion of the war, we got the Rowlatt Act. Soon after, we saw that thousands of people were shot dead at Jallianwalla Bagh in Amritsar. All these things went home to us, and we were fretting and fuming, not knowing what to do. It was at this time that Mahatma Gandhi stepped into the arena, because he saw that the country was going to rack and ruin on account of the policy pursued by the British Government. He only gave expression to the pent up feeling in the country. Then, what was the state of the Mussalmans? What did Lloyd George say to the Mussalmans in the days of the war? He said that they were not fighting against the Turks; they were not fighting against the Mussalman community; but we found, as a matter of fact, their one desire was to bring about disruption, to dismember the Muslim power, and, in that, they have succeeded. At this our heart is still burning. These are only some of the causes that have led to the present unrest. But the Government believe that they can cure the present trouble by passing an Act of this character. Do you think, Sir, that the British Government will be able to do it? Certainly not.

You take the history of the last ten years. When the non-co-operation movement was first launched, there were not many people to come forward to court imprisonment and suffering. But when, in 1930, the civil disobedience movement was started, we know how many thousands of youngmen have come forward to sacrifice their everything, all for the sake of patriotism, for the cause of their country. What is the reason? The reason is that they feel that Britisher is not ruling India for Indians. Sir, I know, as students we were taught 14 benefits of British rule. We were brought up with those ideas. We thought the Britishers were angels on earth, we thought the Britishers were heaven born and angels, and that to do anything against them was sacrilege. Now, when we grew a little older and began to see a little bit of the other side for ourselves, our heart began to fret and fume. We saw the reality of the picture, we now realise what our true position is.

Now, Sir, I must warn the Government from my place on the floor of this House, as a well wisher of the British Government, as one who wishes to see the British Government to remain for some time more in this country, of course with a change of heart, that they should change their policy and methods of rule in this country. Otherwise it will be for their own sorrow. Remember that the new generation of boys are all growing up in an entirely different atmosphere from the one in which we of the last generation were brought up. Boys and girls are all growing up with the bitterest hatred against the present Government, because of the wrong policy they are pursuing to keep down the people. What do they see every day? They see every day in villages and towns that their brethren are beaten like dogs. I have seen with my own eyes, how the police have treated the civil disobedience people. I have seen, Sir, how young boys have been beaten and thrown on the roads and dragged along the road with their faces downward. (Cries of "Shame, shame".) This is what our young men are seeing every day

Mr. Muhammad Yamin Khan (Agra Division: Muhammadan Rural): Were these Moplah boys?

Mr. Uppi Sahab Bahadur: I do not care whether they are Moplah boys or Hindu boys. Is it not this Government that have strangled not one or two people, but 23 Moplahs in a wagon in the train tragedy? Is it not the Britisher who has enacted the Blackhole of Calcutta in this land in recent years? My Muslim brother asks, if they were Moplah boys. I know only too well what the Government did in 1921 with the Moplahs. The world has so far heard of only one wagon tragedy with regard to Moplahs, but there were two such tragedies. The Honourable the Home Member might refer to 1711, but what about the No. 8 wagon. Well, the world does not know that. Sir, my Muslim brother asks, whether the boys, who were being beaten, were Moplah boys. I do not care whether they were Moplah or Hindu boys. Every human being is a human being. (Applause from the Nationalist and Independent Benches.)

Then, Sir, when Mahatma Gandhi was having his historic march to Dandi, I remember, he said,—these were almost his own words—“I am quite aware that by stopping a few crores of rupees, the Britishers will not be driven out of India. I am quite aware that by getting a few crores of rupees, the unemployment and poverty problem of India is not going to be solved, but what I want to do by starting this civil disobedience movement is to show to the world in its naked form the satanic character of the British Government”, and Mahatma Gandhi has been able to show to the world how we are being governed today. Hereafter, Sir, we are not going to be governed, but we are going to be put down, we are going to be crushed. Every one of us will have to remain with our life in our hands. We do not know which police officer we have displeased. Hereafter we are going to get “common sense rule”. We have been crying for autonomy, but hereafter we are going to get “common sense” rule. That is what the Secretary of State has told us. Hereafter we are going to get, instead of autonomy, autocracy, that is what we see in the papers. This is how we are going to be ruled. Do the British Government, if they have got any sense, any statesmanship, believe that they would be able to govern India by this Act? Certainly not. They may be able to remain here in India, they can be here in India, they can get on very well, if they show a change of heart, but not by oppression and suppression. (Cheers from Nationalist and Independent Benches.) I have much to say but you will come down upon me, I am afraid, (Some Honourable Members: “Go on.”) I was saying that Mahatma Gandhi said in his speech that he wanted to expose the British Government, and he has succeeded in it, succeeded to the core. Now, this Act is intended to restore peace and order in the country. If the British Government are thinking of giving us peace and order in the country in this way, then such a peace there is in hell also. (Cheers.)

Several Honourable Members: The question may now be put.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): I accept the closure. The question is that the question be now put.

The motion was adopted.

The Honourable Mr. H. G. Haig: Sir, in rising to make my last speech on this Bill, I desire to thank the House for the patience and forbearance with which they have listened to me throughout these debates. I should be ashamed to reckon up the number of my speeches, but the House will recognise that these were not all voluntary efforts on my part. I as well as they would gladly have dispensed with many of them. However patient Honourable Members may be, there comes a point of satiety, as has been delicately indicated by my Honourable friend, Mr. Bower, in his admirable maiden speech. Therefore, I shall be brief.

I have observed in today's debate a fear that the provisions of this Bill may be administered with undue rigour. On the contrary, my hope is that once these provisions are placed on the Statute-book for a reasonable period, there may, as time goes on, be less and less necessity to use them. It has repeatedly been explained in the House that the sections dealing with boycott and picketing will only come into operation where an active movement necessitates this form of protection. With regard to the administration of the Press provisions, I have already promised to address Local Governments. To a large extent I regard this Bill as an insurance against the recrudescence of trouble, and the less it is necessary to use these powers the better I and all officers of Government will be pleased.

And now we have come to the end. We have differed and discussed, we have compromised, and we have voted. We have fought a good fight, and I hope I may say, a fair fight on both sides, and now we must go forward to the decision. But, Sir, I would end, not on a note of gloom, but on a note of hope. We have been passing through troublous times. It is difficult enough under any conditions to shift the balance of power in a vast country like India, to set up a new system of Government, to establish new political conceptions and relations. During the last few years, the more extreme elements, while claiming, and I doubt not, genuinely believing that they were advancing the good of their country, have in fact done all they could to impede our task, to destroy the hope of peaceful progress, and to disturb the foundations on which the new State is to be built, the foundations on which every free State must be built,—the foundations of respect for law and liberty of action within the limits allowed by the law. My Honourable friend, the Leader of the Independent Party, this morning demanded that the Government should show a spirit of co-operation in response to the great gesture of co-operation made by this House yesterday. I might be excused a little mild surprise that the Honourable Member should take credit

Sir Abdur Rahim: No, I did not.

The Honourable Mr. H. G. Haig: to himself for a co-operation which he did everything in his power to oppose. (Laughter.) But, Sir, I do not wish to press too far the personal point. I am willing to believe that the Honourable Member, impressed by the verdict of this House, is now prepared to associate himself with their views. The real answer is this. With those who are pursuing a policy which is clearly at variance with the interests of the country, which is destructive of the foundations on which not only this Government, but any Government must rest,—with people who are pursuing such a policy we cannot

[Mr. H. G. Haig.]

co-operate. But is there no proof of co-operation, is there not co-operation and full co-operation going on in London at this moment at the Round Table Conference in the framing of a constitution, of the details of which my Honourable friend, Maulvi Sayyid Murtuza Saheb Bahadur, appears to be singularly ignorant? If the menace which is typified in the civil disobedience movement is once removed—and the passing of this Bill will contribute powerfully to remove it,—then we can go forward with confidence into the new era, the prospect of which is widening daily before us. Difficulties there may be, difficulties there will be, but the tide is coming in, and I would ask the House to remember the words of the English poet:

"For though the tired waves vainly breaking,
Seem here no painful inch to gain,
Far back, through creeks and inlets making,
Comes silent, flooding in, the main."

(Loud and prolonged Applause.)

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That the Bill to supplement the Criminal Law, as amended, be passed."

1 P.M.

The Assembly divided:

AYES—57.

Abdul Hye, Khan Bahadur Abul
Hasnat Muhammad.
Acott, Mr. A. S. V.
Ahmad Nawaz Khan, Major Nawab.
Ahmed, Mr. K.
Allah Baksh Khan Tiwana, Khan
Bahadur Malik.
Amir Hussain, Khan Bahadur Saiyid.
Anklesaria, Mr. N. N.
Anwar-ul-Asim, Mr. Muhammad.
Bajpai, Mr. G. S.
Bhore, The Honourable Sir Joseph.
Bower, Mr. E. H. M.
Burt, Mr. B. C.
Dalal, Dr. R. D.
DeSouza, Dr. F. X.
Dunn, Mr. C. W.
Dutt, Mr. G. S.
Fazal Haq Piracha, Shaikh.
Fox, Mr. H. B.
Greenfield, Mr. H. C.
Gwynne, Mr. C. W.
Haig, The Honourable Mr. H. G.
Henlett, Mr. J.
Hosack, Mr. W. B.
Hudson, Sir Leslie.
Ishwarsingji, Nawab Naharsingji.
Ismail Ali Khan, Kunwar Haje.
James, Mr. F. E.
Jawahar Singh, Sardar Bahadur
Sardar.
Lal Chand, Hony. Captain Rao
Bahadur Chaudhri.

Mackenzie, Mr. R. T. H.
Macqueen, Mr. P.
Meek, Mr. D. B.
Metcalf, Mr. H. A. F.
Mitchell, Mr. D. G.
Mitter, The Honourable Sir
Brojendra.
Moore, Mr. Arthur.
Morgan, Mr. G.
Muzumdar, Sardar G. N.
Mukherjee, Rai Bahadur S. C.
Nayudu, Rao Bahadur B. V. Sri Hari
Rao.
Nihal Singh, Sardar.
Noyce, The Honourable Sir Frank.
Rafuddin Ahmad, Khan Bahadur
Maulvi.
Rajah, Rao Bahadur M. C.
Rau, Mr. P. R.
Ryan, Mr. T.
Schuster, The Honourable Sir George.
Scott, Mr. J. Ramsay.
Sher Muhammad Khan Gakhar,
Captain.
Singh, Mr. Pradyumna Prasad.
Sorley, Mr. H. T.
Suhrawardy, Sir Abdulla-al-Masud.
Tottenham, Mr. G. R. F.
Wajihuddin, Khan Bahadur Haji.
Yakub, Sir Muhammad.
Yamin Khan, Mr. Muhammad.
Zulfiqar Ali Khan, Sir.

NOES—31.

Abdul Matin Chaudhury, Mr.
Abdur Rahim, Sir.
Azhar Ali, Mr. Muhammad.
Badi-uz-Zaman, Maulvi.
Ehuput Sing, Mr.
Chandi Mal Gola, Bhagat.
Chetty, Mr. R. K. Shanmukham.
Dutt, Mr. Amar Nath.
Gour, Sir Hari Singh.
Gunjal, Mr. N. R.
Isra, Chaudhri.
Jadhav, Mr. B. V.
Jog, Mr. S. G.
Lalchand Navalrai, Mr.
Misra, Mr. B. N.
Mittra, Mr. S. C.

Mody, Mr. H. P.
Murtuza Saheb Bahadur, Maulvi
Sayyid.
Parma Nand, Bhai.
Patil, Rao Bahadur B. L.
Ranga Iyer, Mr. C. S.
Reddi, Mr. T. N. Ramakrishna.
Sant Singh, Sardar.
Sarda, Diwan Bahadur Harbilas.
Sen, Mr. S. C.
Sen, Pandit Satyendra Nath.
Singh, Mr. Gaya Prasad.
Sitaramaraju, Mr. B.
Sohan Singh, Sardar.
Thampan, Mr. K. P.
Ziauddin Ahmad, Dr.

The motion was adopted.

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

The Assembly re-assembled after Lunch at Twenty Minutes Past Two of the Clock, Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

THE INDIAN TARIFF (OTTAWA TRADE AGREEMENT) AMENDMENT BILL.

The Honourable Sir Joseph Bhore (Member for Commerce and Railways): Sir, I introduce the Bill further to amend the Indian Tariff Act, 1894, for certain purposes.

Sir, I move:

"That the Bill further to amend the Indian Tariff Act, 1894, for certain purposes, be referred to a Select Committee consisting of Mr. R. K. Shanmukham Chetty, Mr. C. S. Ranga Iyer, Sardar Sant Singh, Mr. K. P. Thampan, Mr. N. R. Gunjal, Mr. B. Sitaramaraju, Mr. S. C. Mitra, Shaikh Sadiq Hasan, Dr. Ziauddin Ahmad, Mr. H. P. Mody, Khan Bahadur Haji Wajihuddin, Mr. F. E. James, Mr. Rahimtoola M. Chinoy, Sir Abdulla Suhrawardy, Dr. F. X. DeSouza, Mr. G. Morgan, Sir Zulfiqar Ali Khan, the Honourable Sir George Schuster, the Honourable Sir Frank Noyce and the Mover, with instructions to report on or before the 12th December, 1932, and that the number of members, whose presence shall be necessary to constitute a meeting of the Committee, shall be five."

This Bill, Sir, seeks to implement the Trade Agreement arrived at with the United Kingdom. The principle underlying it has been discussed in great detail in this House for many days and there is little new that I can say at this state which will add much to the proceedings. I will, therefore, confine myself to a very short explanation of the Bill which I have placed before this House in pursuance of the Resolution which was passed yesterday. The Bill consists of four clauses and a Schedule. Clause 1, sub-clause (2), leaves the fixation of the date, from which the the Bill, if passed, will come into force, to the Governor General in Council, because, Sir, the settlement of administrative details will take some time and it is impossible for us to say here and now what the exact date should be. Clause 2 hardly needs any detailed elucidation. It

[Sir Joseph Bhore.]

contains the requisite directions to customs authorities in regard to the application of the new rates of duty. When preference is given to the goods of any country, it is necessary to issue directions to the customs authorities, so that they can settle the question of the country of origin, and this section provides for the issue of rules in this behalf. Clause 4 exempts the rates shown in the Schedule from the operation of the Indian Finance Act of 1931; that is to say, the rates shown in the Schedule are net rates and these have been fixed after taking into account the existing rates and sur-charges.

I come next to the Schedule. In explaining the Schedule, it is necessary to say that the general plan is to include under two new parts, numbered as VIII and IX, the goods subject to preferential rates. The first forty-five items in the Schedule are merely consequential changes necessitated by the removal to Parts VIII and IX of the items hitherto included in the existing parts of Schedule II of the Act. As regards Part VIII, I should add that it contains all the articles which are at present dutiable under Part V at the general revenue duty,—normally 15 per cent. and at the present moment 25 per cent. I should say, further, that the existing general rate of duty is being modified partly by raising and partly by lowering. The net result is generally that the rates of duty under this part for British goods have been lowered from the existing 25 per cent. *ad valorem* rate to 20 per cent. and the rates for foreign goods have been raised by five per cent. to 30 per cent. That is the way in which we have provided for the ten per cent. preference under this class. I ought to say that, on the most careful examination that we have been able to make, Government are of opinion that this re-arrangement of rates will result in no material alteration of our revenue position. My Honourable colleague, the Finance Member, explained yesterday the factors that had been taken into account in arriving at this conclusion. We have been influenced mainly by two considerations, namely, the interests of the consumer and the interests of the exchequer. As regards Part IX, I should say that it contains all the articles on the preferential list which are dutiable at special rates, that is to say, at rates either higher than or lower than the general revenue rate, and, in regard to these, I have merely to say that we have in no case gone beyond 50 per cent. *ad valorem*. Where the trade figures and general considerations warrant this, in a few cases, we have given preference by entirely raising the duty. But, in the other cases, we have given it partly by raising and partly by lowering. Here also we have been generally guided by the interests of the consumer and of general revenues. I ought just to explain, Sir, that the form of the Schedule is somewhat different to the Notification which was published some days ago, and this has been due partly to drafting improvements, and partly to a few changes of substance; for instance, it has now been possible to enter definitely the rates in regard to tobacco which we now propose to levy.

There is another thing I ought to bring to the notice of the House. With reference to clauses 2 and 3 of the Supplementary Agreement relating to iron and steel, Government are satisfied that they possess the necessary powers to implement this part of the Agreement and that they will use these powers straightaway, should necessity arise. That, Sir, I think, is the Bill which I have placed before this House, and I would like to make an appeal to the House to allow this Bill to go at the earliest

possible moment to a Select Committee. There is just one other matter to which I should like to refer, with reference to what fell from the Honourable the Leader of the Independent Party this morning. I would like to say that I personally would most warmly welcome any co-operation that he might extend to me in this matter. Sir, I move.

Mr. C. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): Sir, it is unnecessary at this stage to make a very lengthy criticism for the obvious reason that this Bill is the direct result of yesterday's Resolution which was carried by this House. It is hardly necessary to stress the fact that every one who goes into this Committee goes with the purpose of constructive criticism and amendment and not the destructive purpose of wrecking the Bill or trying to maintain intact the existing tariffs. I have, of course, in certain matters to measure swords with the Government and put up an uncompromising fight, as, for instance, taking one item in the Schedule, namely, soap. We find that the standard rate of duty will be 30 per cent, the preferential rate of duty will be 20 per cent and the present rate is 25 per cent. They have lowered the rate of duty by five per cent in favour of England. In India, soap can be manufactured and is being manufactured on a vast scale. On a matter like this, I may definitely state, I do not propose to compromise to the extent even of five per cent, because I do not want the soap industry in this country to be killed or, for that matter, to be unfairly treated by lowering the wall of tariff in favour of Great Britain. While I will certainly be willing to give preference to British soap in consequence of our being within the Empire and thereby, I hope, of getting our constitutional relations improved, I will certainly insist that the existing tariff must be maintained and the tariff wall raised a little higher against non-British and non-Empire soap. I do not want to go into details. I only give this specific instance, for every student of Indian industrial possibilities and activities will be able to say that in the matter of soap we have a great capacity for production. We have every facility for production and we do not want to allow any soap from outside, whether British or foreign, to compete unfairly with our own soap. Therefore, I only ask my friends on this side of the House to leave it to their representatives to put up a fight where they think a fight is reasonable and to possess their souls in patience until this Bill emerges from the Select Committee. With these few words, I conclude my observations. I hope there will not be more speechifying on this matter so that we may straightaway go into the Select Committee and come early out of it.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That the Bill further to amend the Indian Tariff Act, 1894, for certain purposes, be referred to a Select Committee consisting of Mr. R. K. Shanmukham Chetty, Mr. C. S. Ranga Iyer, Sardar Sant Singh, Mr. K. P. Thampan, Mr. N. R. Gunjal, Mr. B. Sitaramaraju, Mr. S. C. Mitra, Shaikh Sadiq Hasan, Dr. Ziauddin Ahmad, Mr. H. P. Mody, Khan Bahadur Haji Wajihuddin, Mr. F. E. James, Mr. Rahimtoola M. Chinoy, Sir Abdulla Suhrawardy, Dr. F. X. DeSouza, Mr. G. Morgan, Sir Zulfiqar Ali Khan, the Honourable Sir George Schuster, the Honourable Sir Frank Noyce and the Mover, with instructions to report on or before the 12th December, 1932, and that the number of members, whose presence shall be necessary to constitute a meeting of the Committee, shall be five."

The motion was adopted.

STATEMENT OF BUSINESS.

The Honourable Sir Brojendra Mitter (Leader of the House): Sir, with your permission, I desire to make a statement as to the probable course of Government business next week. It is our intention, Sir, after the report of the Select Committee is presented, to request you to suspend the Standing Orders and take the report into consideration after two days instead of the usual week.

Mr. B. E. Shanmukham Chetty (Salem and Coimbatore cum North Arcot: Non-Muhammadan Rural): The Bill ought to be taken into consideration by the 14th December.

The Honourable Sir Brojendra Mitter: The request I make is this: if the report be presented on Monday, the 12th, that it be taken into consideration on the 14th instead of on the 19th, which would be the usual time under the Standing Orders.

Mr. Amar Nath Dutt (Burdwan Division: Non-Muhammadan Rural): May I know, Sir, who cancels the Standing Orders?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member proposes to request the Chair to suspend the Standing Orders. It is in the absolute discretion of the Chair to do so or not to do so.

The Honourable Sir Brojendra Mitter: Then the Government will proceed with the other legislative business which I announced last week. This consists of:

- (1) The motion to take into consideration the Bill to supplement the Bengal Terrorist Outrages Act.
- (2) The motion to take into consideration the Bill to amend the Merchant Shipping Act in connection with the Haj Pilgrimage, as reported by the Select Committee.
- (3) The motion to take into consideration the Bill to prevent the pledging of Child Labour, as reported by the Select Committee.
- (4) The motion to take into consideration the Murshidabad Bill; and
- (5) The introduction of two Bills, namely, a Bill to amend the Merchant Shipping Act for certain purposes, and a Bill to amend the Auxiliary Forces Act for certain purposes. It is not proposed to proceed further with these two Bills in this Session.

The Assembly then adjourned till Eleven of the Clock on Monday, the 12th December, 1932.

LEGISLATIVE ASSEMBLY. 9

Monday, 12th December, 1932.

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

QUESTIONS AND ANSWERS.

POSITION OF LIFE ASSURANCE COMPANIES IN REGARD TO RATE OF TAX APPLICABLE TO INTEREST ON SECURITIES.

1612. ***Sir Leslie Hudson** (on behalf of Mr. H. P. Mody): Will Government be pleased to state:

- (a) whether Notification No. 42, dated 10th September, 1932, Finance Department, Central Revenues, regarding the rate of tax applicable to interest on securities, is applicable to Life Assurance Companies;
- (b) whether the procedure followed in this regard in different Provinces is the same;
- (c) whether the Central Board of Revenue have received any representation in this regard from Life Assurance Companies in Bombay; and
- (d) if so, how they propose to deal with the matter?

The Honourable Sir George Schuster: (a) No. The Notification relates to the rate of tax applicable to interest paid on securities in an assessee's "previous year", whereas Insurance Companies are not assessed on the income of the "previous year", but on the results of a periodical actuarial valuation.

(b) I have no reason to suppose otherwise, but the Central Board of Revenue are making enquiries, and will take steps, if necessary, to secure uniformity.

(c) No, but one Company approached the Commissioner of Income-tax, Bombay.

(d) The Board accepted the opinion of the Commissioner that the Notification was not applicable.

UNDERSTAFFED CLERICAL AND COMPUTING BRANCHES OF THE GOVERNMENT OF INDIA PRESS, NEW DELHI.

1613. ***Mr. S. O. Mitra**: (a) Are Government aware that the Clerical and Computing Branches of the Government of India Press, New Delhi, are greatly understaffed, work is in arrears, and men are forced by the Manager to take work home, stay after office hours and work on Sundays and gazetted holidays?

(b) Will Government be pleased to state the number of occasions on which the staff of the Computing Branch was booked to attend on Sundays and holidays in the year 1932?

(c) Is it a fact that proposals for increasing the staff of the New Delhi Press have been under consideration for the last four years, but that no additional staff has been sanctioned?

The Honourable Sir Frank Noyce: (a) I am informed that temporary clerks have been engaged to prevent arrears and that no clerk is asked to stay after office hours or to take work home. Clerks booked to attend on a Sunday or a holiday, are granted compensation leave which is always taken.

(b) Nine (3 Sundays and 6 holidays).

(c) Proposals for increasing the staff have been held in abeyance owing to the pressing need for keeping down expenditure.

CLERKS IN THE GOVERNMENT OF INDIA PRESS, NEW DELHI, SHOWN ON THE FLUCTUATING STAFF.

1614. ***Mr. S. C. Mitra:** (a) Is it a fact that there are certain clerks employed in the Government of India Press, New Delhi, who are shown on the fluctuating staff for the last three to four years and are not given any increment since the date of their employment?

(b) Is it a fact that they were originally taken for a few months to tide over the work in the busy season, but were subsequently retained owing to the increase of work of a permanent nature?

(c) If the replies to parts (a) and (b) are in the affirmative, will Government be pleased to state why the fluctuating staff are not brought on to the regular establishment when the work which they are doing is of a permanent nature? Do Government now propose to take steps to make the prospects of their service better by giving them regular increments and admitting them to the benefits of the contributory provident fund?

(d) Is it a fact that during all these years of their appointment there did occur a few vacancies on the regular establishment of the Reading Branch of the said Press, which were filled by outsiders of lesser qualifications? If so, why were the claims of men already in service overlooked?

(e) Is it a fact that whenever any officiating vacancy occurs in the Reading Branch of the Delhi Press, a warehouseman getting Rs. 20 per month is given the officiating chance and no man from the so-called fluctuating staff is allowed to officiate as such, though there are men possessing better qualifications? If so, why?

The Honourable Sir Frank Noyce: (a) and (b). Yes.

(c) (i) The fluctuating staff who are doing work of a permanent nature cannot be transferred to the regular establishment as the proposals for additions to the regular establishment have been held in abeyance on account of the present financial position. Four clerks originally employed on the fluctuating establishment have, however, been brought on to the regular establishment as vacancies occurred.

(ii) No.

(d) Certain vacancies on the industrial establishment, which includes the staff of the Reading Branch were filled by qualified outsiders because none of the fluctuating clerical staff applied for the posts. Clerks are ordinarily unwilling to work in the industrial branches where the conditions of service are different.

(e) Warehousemen have been given such opportunities. As already stated, clerks are ordinarily unwilling to work in the industrial branches. But if in future they apply for transfer to the industrial branches, their applications will be considered.

Dr. Ziauddin Ahmad: In case the fluctuating staff is required all the year round, will it not be better to make them permanent, so that better efficiency may be obtained?

The Honourable Sir Frank Noyce: I agree with the Honourable Member, but I would point out that I have already stated that proposals for additions to the regular establishment have had to be held in abeyance on account of the present financial position.

HEALTH OF MR. SUBHAS CHANDRA BOSE.

1615. ***Mr. S. C. Mitra:** (a) Will Government please inform the House the present state of health of State Prisoner Mr. Subhas Chandra Bose?

(b) Is it a fact that there was a difference of opinion amongst his medical advisers as to the cause of his intestinal troubles? Has it been referred to a Medical Board for correct diagnosis? If so, what is the opinion of the Medical Board? Is it unanimous?

(c) Is it a fact that there is no arrangement at Bhowali Sanatorium for treatment of intestinal troubles whether due to tubercular affection or otherwise? If not, why has Mr. Bose not been transferred to any other suitable place where proper arrangement may be made for the treatment of his intestinal troubles?

(d) Is it a fact that the Medical Board in Madras suggested that in case of necessity Mr. Bose should be transferred to a place out of India—preferably Switzerland—where most up-to-date treatment for this particular disease, may be availed of?

(e) Are not Government aware that an adjournment motion in the Bengal Council has been carried without division for not taking adequate and timely steps for the health of Messrs. Bose and Sen-Gupta?

The Honourable Mr. H. G. Haig: (a), (b), (c) and (d). I would refer the Honourable Member to the reply I gave to Pandit S. N. Sen's starred question No. 1524 on the 5th December, to which I have nothing to add at present. I hope to be able to give further information to the House when Government have considered the report of the Medical Board which has just been received.

(e) I have seen a Press report of the debate. The Government have taken, and are taking, special pains to provide suitable treatment for Mr. Bose.

Mr. S. C. Mitra: Is it a fact that the sanatorium will be closed on the 15th of December? If that is so, do Government propose to send Mr. Bose elsewhere for treatment in the meantime?

The Honourable Mr. H. G. Haig: Yes, Sir; it is intended to send Mr. Bose to Lucknow for further examination and treatment. The Board, which has just examined him, concluded that in any case the Bhowali treatment has not done him any good.

Mr. S. C. Mitra: Is it a fact that for intestinal tuberculosis there is no proper treatment in India and that the best place is either Denmark or Vienna, and, if that be so, do Government propose to send him out of India for treatment?

The Honourable Mr. H. G. Haig: When Mr. Bose has been further examined in Lucknow, the whole question will be further considered.

HEALTH OF MR. J. M. SEN-GUPTA.

1616. ***Mr. S. C. Mitra:** (a) What is the present state of health of Mr. J. M. Sen-Gupta? Why has he been transferred from Jalpaiguri Jail to Alipur Central Jail? Is it due to his bad health? If so, what steps have been taken for his treatment since his transfer to Alipur?

(b) Is it the intention of Government to release him or to transfer him to a sanatorium in view of his continued ill-health in jail?

The Honourable Mr. H. G. Haig: (a) I would refer the Honourable Member to the reply I gave to Pandit S. N. Sen's starred question No. 1524 on the 5th December, 1932.

(b) No.

HEALTH OF MR. SARAT CHANDRA BOSE.

1617. ***Mr. S. C. Mitra:** (a) What is the present state of health of Mr. Sarat Chandra Bose? Is he still in the Jubbulpore Jail? Who are the other State Prisoners now in the Jubbulpore Jail since the transfer of Mr. Subhas Chandra Bose? What association does Mr. Sarat Bose get in that Jail?

(b) Is it a fact that he has not recovered from diabetes from which he has been suffering? Do Government intend to remove him to a healthy place?

The Honourable Mr. H. G. Haig: (a) The medical reports show that he is keeping fairly good health. He is still detained in the Jubbulpore Jail. There has been no other State prisoner in that jail since his brother was transferred for medical treatment. The question of arranging suitable association for him is under consideration.

(b) I understand he still suffers from diabetes. Government have received a representation from him as regards the place of his detention, and this is under consideration.

MANUFACTURE OF SALT ON THE ORISSA COAST.

1618. ***Sardar G. N. Mujumdar** (on behalf of Mr. B. N. Misra): (a) Are Government aware that in 1822 the revenue from salt duty in Orissa was Rs. 18 lakhs as stated in Toynbee's History?

(b) If the answer to part (a) be in the affirmative, will Government please state when and how salt manufacture on the Orissa coast was stopped?

The Honourable Sir George Schuster: (a) It is stated on page 70 of Toynbee's Sketch of the History of Orissa from 1803 to 1828, on the authority of Mr. Sterling that at some unspecified period the salt monopoly in Orissa yielded a net revenue of little less than 18 lakhs of sicca rupees, I presume annually. 15 sicca rupees were equivalent to 16 Company's rupees.

(b) Manufacture by the "Panga"† method ceased in 1889. This was due to a variety of causes. The extinction of jungles from which firewood had been obtained, the heavy fees demanded by zamindars for the excavation of salt earth and for the extraction of fuel from their forests and the gradual dying out of the prejudice against the use of imported salt.

Manufacture by the Karkatch‡ method ceased in 1897-98. This method, though cheaper, was handicapped by the weakness of the brine, and the unsettled weather that is apt to prevail on that part of the coast during the manufacturing season. It succumbed on the opening of the East Coast Railway to the competition of Madras and foreign salts.

MANUFACTURE OF SALT AT HUMMA, SORDO AND NAUPADA IN THE GANJAM DISTRICT.

1619. ***Sardar G. N. Mujumdar** (on behalf of Mr. B. N. Misra): (a) What quantity of salt is being manufactured at (i) Humma, (ii) Sordo, (iii) Naupada (in the Ganjam District) annually during the last ten years, respectively?

(b) If the information in reply to the above question is not available, will Government please enquire and place the reply on the table of this House?

The Honourable Sir George Schuster: (a) and (b). I am obtaining the information asked for and will lay it on the table in due course.

MANUFACTURE OF SALT AT PARIKUD, MEALUD AND OTHER PLACES ON THE ORISSA COAST.

1620. ***Sardar G. N. Mujumdar** (on behalf of Mr. B. N. Misra): (a) Will Government please state if they have taken any action to encourage salt manufacture in (i) Parikud, (ii) Mealud and (iii) other places on the Orissa coast?

(b) What is the distance between Hamma and Parikud?

The Honourable Sir George Schuster: (a) Not directly. The development of local industries is a matter for the Local Government.

(b) The distance is 25 miles over Ganjam Road or train to Balugaon and 12 miles over Chilka Lake.

RULES FOR DETERMINING SENIORITY IN THE OFFICE OF THE CONTROLLER OF RAILWAY ACCOUNTS.

1621. ***Sardar G. N. Mujumdar** (on behalf of Mr. B. N. Misra): (a) Is it a fact that the rules for determining the relative seniority of non-gazetted staff of the Controller of Railway Accounts' Office lay down that the seniority shall be fixed with reference to substantive pay?

† Evaporation by artificial heat of salt earth dissolved in water.

‡ Evaporation of sea brine by solar heat.

(b) If so, will Government please state what objections there are to fixing the seniority of clerks in lower class according to the length of their continuous service? Is it a fact that the Auditor General in India, at the time of introducing the time scale of pay in 1922, had held that pay was not the criterion for purposes of seniority and that this rule still holds good in the Posts and Telegraphs and Civil Accounts Offices and the Office of the Director of Railway Audit and is generally applicable to the staff of the Railway Board also?

(c) Is it a fact that while determining the relative seniority of the staff transferred from the office of the Secretary, Indian Railway Conference Association, due consideration was paid not only to their previous service but also to the initial starting pay which was higher than the minimum pay of the grade?

(d) If the reply to part (c) above be in the affirmative, will Government please state why the continuous service of clerks taken over from the late Accountant General Railways' Office and other departments is not considered a deciding factor for fixing the seniority?

(e) Is it a fact that, to complete the strength of the office of the Controller of Railway Accounts, clerks were permanently taken over not only from the late Accountant General Railways' Office but also, time after time, from the Railway Board, Indian Railway Conference Association, old Chief Auditors' Offices, other departments and officers on special duty?

(f) If the reply to part (c) above be in the affirmative, will Government please state whether their grades of pay were different? Is it a fact that the staff attached to officers on special duty were given higher pay than they would have drawn in the ordinary course, and which they were allowed to draw even after transfer to the office of the Controller of Railway Accounts?

Mr. P. R. Rau: (a) and (b). I would refer the Honourable Member to the rules for determining the relative seniority of non-gazetted staff in State Railway Accounts Offices, a copy of which is in the Library of the House. These apply to the non-gazetted staff of the office of the Controller of Railway Accounts as well. They were framed last year after full consideration and Government see no reason to alter them.

(c) and (d). I am informed that the seniority of the clerks in the office of the Controller of Railway Accounts was fixed strictly in accordance with these rules after taking into account all relevant factors, such as, pay, length and character of service. It may, however, be mentioned that promotion depends upon merit and suitability and not primarily on the position in the seniority list.

(e) It is a fact that the office of the Controller of Railway Accounts, when it was constituted in 1929 was recruited from various sources.

(f) The answer to both parts of the question is in the affirmative. The pay of staff transferred to this office was paid in each case after taking all circumstances into consideration, including the pay they were in receipt of before such transfer.

ORISSA COMMITTEE REPORT.

1622. ***Mr. B. N. Misra:** (a) Will Government be pleased to state whether they have despatched their views on the Orissa Committee Report?

(b) If the reply to the above question be in the negative, will Government be pleased to state when they are going to send their final views on the Orissa Committee's Report to the Secretary of State for India?

(c) Do Government think that the matter will not come up before the Third Round Table Conference?

(d) If the reply to part (a) be in the affirmative, will Government be pleased to inform the house what were the views expressed by them in their despatch?

The Honourable Sir Brojendra Mitter: Sir, with your permission, I shall reply to questions Nos. 1622, 1623 and 1624 together.

The Government of India have obtained from the Local Governments concerned their views on the Orissa Committee's report and have addressed the Secretary of State in the matter. The whole question is under consideration and I am not in a position to state the views either of Local Governments or of the Government of India at this stage.

2. As regards the discussion of the question at the Round Table Conference and the representation of Orissa thereon, I would invite the Honourable Member's attention to the reply given by my Honourable colleague, the Home Member, to Mr. Bhuput Sing's short notice question on the 22nd November last.

ORISSA COMMITTEE REPORT.

†1623. ***Mr. B. N. Misra:** (a) Will Government be pleased to state the dates on which they requisitioned and received the opinions on the Orissa Committee Report from the Local Governments of (i) Bihar and Orissa and (ii) Madras?

(b) Will Government be pleased to state the opinion of the Bihar and Orissa Government with regard to the separation of Orissa?

(c) Will Government be pleased to state the opinion of the Madras Government with regard to the separation of Orissa?

PLACING OF THE ORISSA SEPARATION CASE BEFORE THE THIRD ROUND TABLE CONFERENCE.

†1624. ***Mr. B. N. Misra:** (a) Will Government be pleased to state the reasons why they have not sent an Orissa delegate to the Third Round Table Conference?

(b) Will Government be pleased to state whether they have arranged to put the Orissa separation case before the Third Round Table Conference and in what manner?

(c) If not, do they propose to place it before the Joint Parliamentary Committee?

COST INCURRED BY GOVERNMENT ON THE HAULAGE, TRAVELLING AND OTHER ALLOWANCES FOR THE NOMINATED MEMBERS OF THE LEGISLATIVE ASSEMBLY.

1625. ***Pandit Satyendra Nath Sen** (on behalf of Pandit Ram Krishna Jha): Will Government be pleased to state the amount of cost incurred by

† For answer to this question, see answer to question No. 1622.

Government for payment of haulage, travelling and other allowances for the Nominated Members of each Assembly since 1921?

The Honourable Sir Brojendra Mitter: The information asked for is being collected and will be laid on the table of the House in due course.

POSTS CARRYING SPECIAL PAY IN THE IMPERIAL SECRETARIAT PROPER HELD BY MUSLIMS.

1626. ***Dr. Ziauddin Ahmad** (on behalf of Mr. M. Maswood Ahmad): Is it a fact that in answer to unstarred question No. 155 (c) answered on the 30th September, 1932, it was stated that 13·7 per cent. of posts carrying special pay in the Imperial Secretariat proper are held by Muslims? Will Government kindly state the number of Muslims drawing special pay departmentwise, together with their names and the work for which the special pay has been granted to them, excluding the Reforms Office which is on a temporary basis, as also excluding Attached Offices?

The Honourable Mr. H. G. Haig: The percentage was for the Departments of the Government of India and their Attached Offices combined. In regard to the rest of the question I would refer the Honourable Member to the statement laid on the table on the 14th September, 1932, in reply to question No. 1107. That statement gives all the information the Honourable Member requires, except that relating to names of Muslims holding posts carrying special pay. I regret I am unable to undertake to collect this information.

APPOINTMENT OF A MUSLIM TO SCRUTINISE THE COMMUNAL COMPOSITION STATEMENTS OF VARIOUS DEPARTMENTS.

1627. ***Dr. Ziauddin Ahmad** (on behalf of Mr. M. Maswood Ahmad): Is it a fact that Government in the Home Department issue, from time to time, instructions to other Departments to remove communal inequalities? Will Government kindly say whether the Home Department who issue these instructions or any other Department is made responsible to see that such instructions were acted upon and not abused by other Departments? Is it a fact that in each Session of the Legislature there are questions pointing out communal inequalities in different Departments? Are Government prepared to take any action in the matter; or are they prepared to appoint a Muslim to scrutinise the various communal composition statements received from various Departments and suggest means of improving the position of Muslims?

The Honourable Mr. H. G. Haig: General instructions were issued by the Home Department in 1926. Each Department or office is individually responsible for their observance in respect of its own establishment; but the Home Department have also prescribed an annual return with the object of watching the effect of the general instructions. As explained in reply to starred question No. 335 on 16th September, 1931, Government have already undertaken an enquiry into the matter and hope to reach decisions on its results at an early date.

PERCENTAGE OF MUSLIMS IN THE IMPERIAL SECRETARIAT SERVICE OF THE DEPARTMENT OF EDUCATION, HEALTH AND LANDS.

1628. ***Dr. Ziauddin Ahmad** (on behalf of Mr. M. Maswood Ahmad): (a) Is it a fact that in May, 1924, the number of Muslims in the Imperial

Secretariat Service (Central Service, Class II) of the Department of Education, Health and Lands was as under?

Total number of Assistants and Superintendents	38
Number of Muslims	9
Percentage of Muslims to the total number	23·7

(b) Is it a fact that in November, 1932, the number of Muslims in the same service of the same Department was as follows?

Total number of Assistants and Superintendents	37
Number of Muslims	7
Percentage of Muslims to the total number	18·91

(c) Is it a fact that the number and percentage of Hindus and Sikhs in the same Service in the same Department was 14 or 36·86 in 1924 and 24 or 65 per cent. in November, 1932?

Mr. G. S. Bajpai: (a) to (c). On the 1st May, 1924, there were only eight Muslims out of 37 Superintendents and Assistants actually serving in the Department of Education, Health and Lands. All these eight Muslims were in the grade of Assistants, and one of them was employed as Librarian. In November, 1932, there were six Muslim Assistants and one Muslim Superintendent in the Department. The decrease of one Muslim Assistant was due to the transfer of the Muslim Librarian to Calcutta on a salary of Rs. 750—50—1,250 as compared with the salary Rs. 200—15—500 which was the scale attached to his post in the Department of Education, Health and Lands. The percentage in 1924 was 21·62 and in November, 1932, 18·91.

The correct percentage of the various communities in these grades on the dates mentioned by the Honourable Member is shown in the statement which I lay on the table.

Statement.

Year.	Total number of posts in the grades of Superintendents and Assistants in Education, Health and Lands Department.	Hindus.		Minority Communities.										Remarks.
		No.	Percentage.	Muslims.		Sikhs.		Europeans, Anglo-Indians, etc.		Other Communities.		Total percentage of Minority Communities.		
				No.	Percentage.	No.	Percentage.	No.	Percentage.	No.	Percentage.			
1924	37*	12	32.43	8	21.62	2	5.41	15	40.54	..	..	67.57		
1932	37	21	56.76	7	18.91	3	8.11	6	16.22	..	..	43.24		

* Excludes one Muslim Assistant who was on deputation.

Dr. Ziauddin Ahmad: May I ask a supplementary question as to part (b) of the question, whether, in calculating the figures, *chaprassis* also are included or excluded?

Mr. G. S. Bajpai: The Honourable Member's question relates to First Division Assistants and Superintendents. Therefore it would be clear that *chaprassis*, who do not rank either with Superintendents or with First Division Assistants, are not included.

NON-ALLOTMENT OF A RENT-FREE QUARTER TO A MUSLIM CLERK IN THE OFFICE OF THE SUPERINTENDENT OF EDUCATION, DELHI.

1631. ***Dr. Ziauddin Ahmad** (on behalf of Mr. M. Maswood Ahmad): (a) Is it a fact that in 1921, when the Delhi and Ajmer-Merwara Education offices were combined under one Superintendent, it was found necessary to transfer one of the Ajmer-Merwara Education Department clerks to Delhi, to do the Ajmer-Merwara work in Delhi? Is it a fact that the first of these was Mr. Bhanwar Lal Dosi, who was afterwards succeeded by Mr. Kesri Mal Taparia? Is it a fact that the same practice is still being continued and only last year a clerk from Ajmer was transferred to do the Ajmer-Merwara work in Delhi?

(b) Is it a fact that as an inducement for this change of headquarters, a rent-free quarter close to the office was allotted in Delhi to the clerk and therefore the first two clerks occupied the rent-free quarters?

(c) Is it a fact that the present Ajmer-Merwara clerk, who is a Muslim, has not been given this quarter, but instead this rent-free quarter has been given to Superintendent of Education's stenographer who is drawing a three-figure salary—the highest in the office?

(d) Will Government kindly state the reasons for this departure?

Mr. G. S. Bajpai: (a) Both the clerks, Messrs. Bhanwar Lal Dosi and Kesri Mal Taparia of the office of the Superintendent of Education, Ajmer-Merwara, were originally transferred to Delhi. This plan had to be given up as it did not work satisfactorily and the two clerks were sent back to Ajmer in 1925. Since then one clerk from the Ajmer-Merwara Education Department has been stationed at Delhi.

(b) A rent-free quarter close to the office was allotted to the two clerks mentioned in the reply to part (a) and they occupied it jointly. The quarter was allotted to them as they were natives of Ajmer-Merwara and had suffered owing to their transfer to Delhi.

(c) The present Ajmer-Merwara clerk was transferred to Delhi on 13th July, 1931. At the time of his transfer, the quarter in question had been occupied by a clerk of the Delhi office for more than seven years. The Superintendent's stenographer was allotted this quarter only in July, 1932.

(d) Does not arise.

EDUCATIONAL ADMINISTRATION OF THE DELHI PROVINCE.

1632. ***Dr. Ziauddin Ahmad** (on behalf of Mr. M. Maswood Ahmad): Has the attention of Government been drawn to a series of articles in the *Alaman* and *General News*, both of Delhi, as also in the *Muslim Outlook*, of Lahore, criticising the educational administration of the Delhi Province

under its new Superintendent? If so, will Government kindly state what action, if any, has been taken?

Mr. G. S. Bajpai: Government have seen an anonymous letter, which was published in certain newspapers, if this is what the Honourable Member has in mind.

Dr. Ziauddin Ahmad: What about the latter part of the question: "If so, will Government kindly state what action, if any, has been taken?"

Mr. G. S. Bajpai: It is not the policy of the Government to take action on anonymous letters.

SPECIAL PAY GIVEN TO THE STENOGRAPHER OF THE SUPERINTENDENT OF EDUCATION, DELHI.

1633. ***Dr. Ziauddin Ahmad** (on behalf of Mr. M. Maswood Ahmad): (a) Is it a fact that in April, 1931, when a separate Superintendent of Education was appointed for Delhi, Ajmer-Merwara and Central India, the pay of his stenographer was fixed with reference to this combined charge of three Administrations and he was given the same grade of pay as the Head Clerk of that Office was drawing and the pay of the Head Clerk was fixed before 1921 when there was no combined charge, Delhi being the only charge? Is it a fact that subsequently, having regard to the combined charge of Delhi and Ajmer-Merwara, the Head Clerk of the Superintendent of Education's office was given a special pay from the Ajmer-Merwara budget on the ground that the pay originally fixed for the Head Clerk was for the Delhi Province work only?

(b) Is it a fact that a special pay of Rs. 25 p. m. has been sanctioned for supervising the clerical work of the Central India Education Department in Delhi? Is it a fact that this special pay is given to the stenographer? If so, why? Is it a fact that the stenographer is always on tour with the Superintendent of Education and this work is therefore done by the Head Clerk, whose pay was fixed for the Delhi Administration work only and who is getting a special pay of Rs. 25 *per mensem* for doing the similar work for Ajmer-Merwara? Will Government kindly state if in these days of financial stringency they have considered the question of doing away with the special pay of Rs. 25?

(c) Is it a fact that a Muslim graduate of the Delhi University, who was working as Programme Clerk in the Superintendent of Education's office and was well up in shorthand, and possessed a certificate of having acquired proficiency in shorthand from the Principal of the Government Commercial Classes, Delhi worked as stenographer to the Superintendent for over six months, but was reverted to his original post on Rs. 60—4—100 and a Hindu stenographer was brought in in the grade of Rs. 100—10—150? If so, why?

Mr. G. S. Bajpai: (a) Yes.

(b) A special pay of Rs. 25 *per mensem* was granted to a clerk in the office of the Honourable the Agent to the Governor General in Central India for the work of the Central India Education Department. As the Superintendent of Education has been appointed recently as Secretary to the Honourable the Agent to the Governor General in the Education

Department, all the work of that Department has been transferred to him and the special pay of Rs. 25 per mensem has been given to the Superintendent's stenographer, who supervises the entire clerical work of the Central India Branch. The question of entrusting the supervision of the clerks dealing with the Central India section to the Head Clerk of the Superintendent's office is being considered.

(c) The temporary Muslim clerk in the Superintendent's office who was given a trial as stenographer proved unsatisfactory. The Head Clerk of the Board of Secondary Education, who was appointed to the post, is, in addition to being an honours graduate, a fully qualified stenographer and has justified his selection. He has not gained much pecuniarily by the appointment as he was already in the grade of Rs. 90—10—140. The appointment was made purely on grounds of efficiency.

APPOINTMENT OF THE STENOGRAPHER OF THE SUPERINTENDENT OF EDUCATION, DELHI, AS AN EXAMINER OF THE BOARD OF SECONDARY EDUCATION, DELHI.

1634. *Dr. Ziauddin Ahmad (on behalf of Mr. M. Maswood Ahmad): Is it a fact that the stenographer of the Superintendent of Education, Delhi has been appointed an Examiner of the Board of Secondary Education, Delhi, of which the Superintendent of Education is Chairman, in two or three subjects? Will Government kindly state if there is any other clerk in the Delhi Education Office or Board's office who was appointed previously or has now been appointed as examiner? If there is no precedent, will Government kindly state the reasons for this preferential treatment?

Mr. G. S. Bajpai: Yes. The stenographer of the Superintendent of Education, Delhi, was selected as an Examiner under the Board of Secondary Education, not by the Superintendent, but by the Board before he was appointed stenographer. So far as Government are aware there is no objection to other clerks in the Superintendent's office or in any other office being selected as Examiners if they are considered qualified by the Board.

PERCENTAGE OF MUSLIM TEACHERS IN THE EDUCATION DEPARTMENT, DELHI AND IN VERNACULAR SCHOOLS, IN AJMER.

1635. *Dr. Ziauddin Ahmad (on behalf of Mr. M. Maswood Ahmad): Will Government kindly state the percentage of Muslim teachers in the Education Department in Delhi? Will Government also state the percentage of Muslim teachers in vernacular schools in Ajmer?

Mr. G. S. Bajpai: The percentage of Muslim teachers in Delhi is 37.3 and in vernacular schools in Ajmer-Merwara it is 15.9.

QUINQUENNIAL REPORT OF THE SUPERINTENDENT OF EDUCATION, DELHI.

1636. *Dr. Ziauddin Ahmad (on behalf of Mr. M. Maswood Ahmad): Is it a fact that a special officer (Headmaster, Government High School, Ajmer) was deputed to write the quinquennial report for the Superintendent of Education, Delhi? Will Government kindly state the total expenditure incurred on account of this, including the travelling allowance, pay of

temporary stenographer and peons attached to this special officer? Will Government kindly state if a special officer was engaged on a previous occasion when the Educational Commissioner with the Government of India was holding this combined charge and wrote such a report? If not, having in view the large amount of extra expenditure incurred by Government in appointing a separate Superintendent of Education, will Government kindly give reasons for this extra financial drain on the budget during these financial stringency days?

Mr. G. S. Bajpai: A special officer was engaged for the purpose of drafting the next quinquennial report on education for Delhi, Ajmer-Merwara and Central India as the Superintendent has, since his appointment, been entrusted with the duties of a number of full-time and part-time officers, whose appointments have since been abolished, and he cannot, therefore, spare the requisite time for this work. The cost of the special arrangements referred to by the Honourable Member was Rs. 2,150.

CLASSES FOR TRAINING IN ORIENTAL LANGUAGES IN THE SIDDIQIA HIGH SCHOOL, DELHI.

1637. *Dr. Ziauddin Ahmad (on behalf of Mr. M. Maswood Ahmad): Is it a fact that the present Superintendent of Education, Delhi, inspected the Siddiqia High School, Delhi? Is it a fact that this Siddiqia High School maintains classes for training in oriental languages (Arabic and Persian) in the school building? Is it a fact that these classes prepare students for the Munshi Fazil and other oriental language examinations of the Punjab University? Is it a fact that this school is maintained through the generosity of one single Muslim merchant who is interested in oriental languages? Is it a fact that while according recognition the Board of Secondary Education, Delhi, did not raise any objection to these classes? Are Government aware that while making his inspection, the Superintendent discouraged him to close these classes under the threat of withdrawing Government grant to the school? Are Government aware that this Muslim merchant preferred to suspend the high classes? Is it a fact that up to 1929 there was only one Muslim Anglo-Arabic High School in Delhi and that there were five high schools managed by Muslims of Delhi at the time the present Superintendent of Education took over charge and these five have now been reduced to four? Are Government aware that the attitude of the present Superintendent of Education is rather discouraging to the Muslims?

Mr. G. S. Bajpai: The answer to the first part of the question is in the affirmative. The classes in Arabic and Persian in the Siddiqia School, Delhi, are not recognised by the Education Department, but no objection has ever been raised by the Board of Secondary Education or by the Superintendent of Education, Delhi, to the retention of these classes, nor has the present Superintendent of Education ever discouraged the management of the school from continuing these classes. Government have no information as to whether these classes prepare students for the Munshi Fazil or any other oriental examination of the Punjab University. It is understood that this school is maintained largely through the generosity of a Muhammadan gentleman. The management have, on their own initiative, discontinued their High School classes, presumably on account of their unsatisfactory results secured in the High School and

School Leaving Certificate Examinations. As a result of this action, the number of Muslim High Schools in Delhi has decreased from five to four. Government have no reason to believe that the attitude of the present Superintendent of Education is discouraging towards Muslim education.

CLERKS AND ASSISTANT PROFESSORS OF THE GOVERNMENT COLLEGE, AJMER.

1638. *Dr. Ziauddin Ahmad (on behalf of Mr. M. Maswood Ahmad): Will Government kindly state the total strength including clerks and assistant professors of the Government College, Ajmer, communitywise, and the percentage of each community on the staff of this college at the time when the present Superintendent of Education took over charge? Will Government kindly give the same information about this college as it stood on 1st November, 1932, with reasons for the fall of percentage of the Muslims?

Mr. G. S. Bajpai: A statement giving the information desired by the Honourable Member is laid on the table. There has been a fall in the percentage of Muslims and the matter is receiving attention.

Statement showing the strength of the staff of the Government College, Ajmer, with percentage of each community.

Date.	Total number of appointments in the College.	Christians.		Hindus.		Muslims.		Remarks.
		No.	Percentage.	No.	Percentage.	No.	Percentage.	
7th April 1931 (when present Superintendent of Education, Delhi, Ajmer, Merwara and Central India assumed charge of office).	17	1	6	14	82	2	12	
1st November 1932	20	..	..	18	90	2	10	

STOPPAGE OF PUBLIC TRAFFIC AT DELHI JUMNA BRIDGE.

1639. *Mr. S. C. Mitra: (a) Is it a fact that orders were issued to stop public traffic at Delhi Jumna Bridge on 16th November, 1932, from 1 P.M., for the free passage of military officers and soldiers?

(b) Is it a fact that only a small batch of military people reached the Shahdra end of the bridge at 11 A.M., and the officer in charge of the military batch ordered the police to stop public traffic forthwith?

(c) Is it a fact that the police constable immediately phoned to the Headquarters and informed the official on duty that only a small batch of the military had arrived before time which was fixed and the rest was on its way between Ghaziabad and Delhi which was due there after a couple of hours (the fixed time of their arrival)?

(d) Is it a fact that all kinds of traffic were ordered to be stopped at once until the whole battery of artillery arrived and passed?

(e) Is it a fact that a large number of motor buses, cars, carts, tongas and pedestrians had to wait at both ends of the bridge till 2-30 P.M.?

(f) Is it a fact that during this long period of three and a half hours several cars which were occupied by Europeans other than military people were not stopped by the Police while no car occupied by Indians was allowed to pass, which caused resentment and trouble?

(g) If the replies to the above questions be in the affirmative, will Government be pleased to state why this distinction was allowed to be made and what action do Government propose to take to safeguard the interest of Indians? If not, why not?

The Honourable Mr. H. G. Haig: (a) Traffic was closed from 11-45 A.M. on the 16th November, 1932, to permit the passage of the Meerut Artillery Brigade.

(b) and (c). Nothing is known of the incidents referred to in these parts of the question.

(d) Yes. This was essential as it would have been dangerous to have permitted any traffic on the bridge while a large number of horses and field guns as well as a baggage train were crossing.

(e) No. Traffic was only held up until 1-30 P.M.

(f) No. The Brigade arrived at the east side of the bridge at 12 Noon; the Officer Commanding intimated that the crossing would not commence before 12-20; in the interval a certain amount of fast traffic was permitted to cross from east to west as well as a number of pedestrians. At 12-15 all traffic was completely stopped and the Brigade started crossing a few minutes later. When the Brigade started crossing there were actually some pedestrians still on the bridge near the west end. By 1-30 P.M. the entire Brigade had cleared the bridge. The whole crossing only occupied one hour and ten minutes.

No discrimination was made at any time. In fact no requests were made by either Indians or Europeans as the necessity for holding up the traffic was obvious to all.

(g) Does not arise.

PROSPECTS FOR INDIAN ASSISTANT STATION MASTERS ON THE NORTH WESTERN RAILWAY.

1640. *Mr. Goswami M. R. Puri: Are Government aware that there are no future prospects for Indian Assistant Station Masters on the North Western Railway? Is it a fact that the higher posts of Assistant Station Masters are given to junior and inexperienced guards? Is it a fact that although they have worked satisfactorily on big junctions like Delhi, Saharanpore, etc., yet they are not made permanent there? Is it correct that most of the chances of Train Controllers are given to other than Assistant Station Masters? Is it also a fact that men with 15 to 20 years' service are still in the lowest grade of Assistant Station Masters, while men with the same service as guards or in commercial line rise far higher? Are Government prepared to reserve class V or higher posts of Assistant Station Masters for Indians or introduce other openings such as B and C class guards, etc.?

Mr. P. R. Rau: With your permission, Sir, I propose to reply question Nos. 1640, 1641, 1643, 1644, 1645 and 1646 together.

Government have no information. I have sent a copy of these questions to the Agent, North Western Railway, for consideration of the points raised in them which are all within his competence to decide.

DISCHARGE OF STATION MASTERS AND ASSISTANT STATION MASTERS ON THE NORTH WESTERN RAILWAY WHO PASSED THE LOWER STANDARD OF MEDICAL TEST.

†1641. ***Mr. Goswami M. R. Puri:** Is it a fact that the Station Masters and Assistant Station Masters on passing the lower standard of medical test, who were up till now given posts in the commercial line on the same pay, are now-a-days discharged on the ground that no suitable posts are available? Are Government aware that when these men were recruited they were sound in health and sight and that it is due to hard night duties that they have lost it? Are Government prepared to reserve a certain number of posts in the commercial line for such failures?

SYSTEM OF MEDICAL EXAMINATION ON THE RAILWAYS.

1642. ***Mr. Goswami M. R. Puri:** Are Government aware that the present C system of medical examination in the Railways is considered by the staff as most difficult? What reasons have Government against the re-introduction of the Dott system as before? Is it a fact that Transportation staff have their specific duties of signals only? What objection have Government if they may only be tested in such lights? Why are they examined every third year? Will Government be pleased to place on the table a list of accidents due to short vision of the staff during 1932?

Mr. P. R. Rau: I have called for certain information and will lay a reply on the table in due course.

PROMOTION OF ASSISTANT STATION MASTERS ON THE NORTH WESTERN RAILWAY.

†1643. ***Mr. Goswami M. R. Puri:** Are Government aware that in accordance with Delhi Divisional Order No. 741, Case No. 687/E./4, dated 23rd November, 1927, though the grade of Assistant Station Masters is Rs. 75 *per mensem* yet hundreds of such staff on the North Western Railway are blocked on Rs. 60 due to administrative inability for getting them qualified? Are Government prepared to grant them promotions from the due dates?

PROMOTION OF ASSISTANT STATION MASTERS ON THE NORTH WESTERN RAILWAY.

†1644. ***Mr. Goswami M. R. Puri:** Are Government aware that by the introduction of course T8 in the training school of the North Western Railway many senior Assistant Station Masters waiting for course T6 are deprived of their overdue promotions while new men and juniors are given promotions prematurely? Are Government prepared to grant the senior men promotion from due dates?

† For answer to this question, see answer to question No. 1640.

REDUCTION OF THE GRADE OF ASSISTANT STATION MASTERS ON CERTAIN JUNCTION STATIONS IN THE DELHI DIVISION OF THE NORTH WESTERN RAILWAY.

†1645. ***Mr. Goswami M. R. Puri:** Is it a fact that the grade of Assistant Station Masters on certain junctions in Delhi Division of the North Western Railway has been reduced due to retrenchment and reduction of work? If so, will Government state why the grades of Station Masters on such stations have not been reduced?

TRANSFERS OF ASSISTANT STATION MASTERS IN THE DELHI DIVISION OF THE NORTH WESTERN RAILWAY.

†1646. ***Mr. Goswami M. R. Puri:** Is it a fact that in the Delhi Division of the North Western Railway many Hindu Assistant Station Masters have been working in cabins for many years while Muhammadans are shifted from cabins after two or three months? Will Government be pleased to place on the table a list of transfers made in 1931-32 with reasons?

ABSENCE OF WATER TAPS IN THE PAHARGANJ RAILWAY QUARTERS IN DELHI.

1647. ***Mr. Goswami M. R. Puri:** (a) Are Government aware that the staff living in Delhi Paharganj Railway Quarters are suffering much trouble without water taps inside their quarters? Is it a fact that this was sanctioned some four years back and officers assured the staff last year that this would be done on completion of the drainage scheme? Is that scheme completed? When can the staff expect the same?

(b) Is it also a fact that these quarters, no sooner are they occupied by the Engineering staff, than they are fitted with taps and soon after such staff vacates them, the taps are withdrawn?

Mr. P. R. Rau: (a) and (b). Government have no information. The matter is one for the Agent to decide, and I am sending him a copy of the Honourable Member's question for consideration, if any action is needed.

APPEALS FROM THE RAILWAY STAFF RECEIVED IN THE RAILWAY BOARD.

1648. ***Mr. Goswami M. R. Puri:** Will Government be pleased to place on the table a statement showing the number of appeals from the Railway staff received in the Railway Board during the last three years and how they were disposed of? Is it a fact that nearly 99 per cent. of the appeals are returned to the respective Agents of Railways even in cases of dismissal discharge, and reductions? Are Government prepared to appoint an appeal section in every Divisional and Agents Office, composed of $\frac{2}{3}$ independently selected staff and $\frac{1}{3}$ officers?

Mr. P. R. Rau: As regards the first two parts of the question, I would refer the Honourable Member to the reply I gave to Mr. Lalchand Navalrai's question No. 1215 on the 14th November. As regards the last part, Government consider this suggestion impracticable.

† For answer to this question, see answer to question No. 1640.

WEEKLY REST SYSTEM OVER THE NORTH WESTERN RAILWAY.

1649. ***Mr. Goswami M. R. Puri:** Are Government aware that since the introduction of the weekly rest system over the North Western Railway, staffs' trouble is greatly increased? Is it a fact that formerly there was only one weekly change in duties while now there are three? Is it a fact that the staff has to perform double, under rest and lengthy duties in order to get rest? Is not this against the Geneva Convention and the amended Railway Act? Have Government considered the question of introducing the East Indian Railway system or totally stopping the weekly rest system?

Mr. P. R. Rau: Government have no detailed information, but understand that the rosters are in conformity with the provisions of the recent amendment to the Railways Act and do not differ considerably from those on the East Indian Railway. A copy of this question has however been sent to the Agent, North Western Railway, to consider whether any action is necessary.

INTER-TRANSFER OF STAFF ON STATE RAILWAYS.

1650. **Mr. Goswami M. R. Puri:** Are Government aware that innumerable staff on State Railways are anxious to go on to other State Railways, and is it a fact that many of them have applied for such transfers and exchanges, but have been disallowed? Do Government propose to issue a general circular inviting such applications and facilitate their sanction?

Mr. P. R. Rau: Government have no information as regards the first part of the question. They do not propose to invite applications for transfer between railways.

ISSUE OF LOCAL PASSES TO SUBORDINATE STAFF ON STATE RAILWAYS.

1651. ***Mr. Goswami M. R. Puri:** Is it not a fact that all the State Railways are owned by one Government? Do Government issue local passes to and from a State Railway to subordinate staff? If not, why not? Is an unlimited number of passes issued to subordinate staff? If not, why not? Is an unlimited number of passes issued to highly paid officers?

Mr. P. R. Rau: In India, the term State Railways is usually taken to mean Railways owned by the Government of India. These, though owned by one authority, are divided for administrative convenience into separate self-contained systems. Passes to employees of one system are generally granted over another system in accordance with the rules for interchange of free passes agreed to by the different railway administrations. The number of passes, admissible in a year has for long been limited, in the case of passes other than first class passes, for obvious reasons and it is proposed to lay down a limit in the case of first class pass holders also in the revised rules for the issue of passes on State-managed Railways, which it is proposed to introduce from the 1st January.

RETRENCHMENT OF RAILWAY EMPLOYEES.

1652. ***Mr. Goswami M. R. Puri:** Is it a fact that thousands of subordinate Railway employees have been retrenched due to fall of traffic

and decrease in work? Does it not affect the officers? If so, will Government please place on the table a statement showing the number of Officers and Inspectors retrenched and reduced?

Mr. P. R. Rau: During the economy campaign in 1931, about 40,000 subordinate employees of all sorts including labourers in workshops and in permanent-way gangs were discharged on all State-owned Railways. As regards superior officers, on State-managed Railways alone, about 134 posts have been abolished or held in abeyance and up to date about 47 officers have been discharged on account of retrenchment and many officiating officers reverted to their substantive subordinate posts. Government have no recent information about the number of officers retrenched on Company-managed Railways, or final figures as regards the number of inspectors retrenched on any railway. Full information is being collected and will be placed on the table in due course.

Dr. Ziauddin Ahmad: Is it not a fact that those officers who were retrenched were put on special duty and not really retrenched?

Mr. P. R. Rau: Those officers who have been retrenched have not been put on any special duty, Sir.

Dr. Ziauddin Ahmad: They are not definitely working in any department of the railways?

Mr. P. R. Rau: I presume the Honourable Member is referring to the fact that the number of posts abolished is larger than the number of officers retrenched. Against this you must set the fact that a large number of officers who were officiating have reverted to their substantive posts.

Dr. Ziauddin Ahmad: What I mean is this. Were those officers retrenched employed in other departments and not sent back?

Mr. P. R. Rau: I have already explained to the House that 47 officers have been discharged.

Dr. Ziauddin Ahmad: Is it a fact that they have been discharged in one place and reappointed in another place?

Mr. P. R. Rau: That is not correct.

RELEASE OF THE GARHWALI MILITARY PRISONERS.

1653. ***Mr. C. S. Ranga Iyer:** Will Government be pleased to state:

- (a) if they propose to release the Garhwali (military) prisoners;
- (b) how many of them are still in prison;
- (c) how many have been released; and
- (d) whether they propose to remit the term of those who have not been released, and, if not, why not?

Mr. G. R. F. Tottenham: I propose, Sir, to give a general answer to the different parts of this question.

Of the 17 persons who were convicted by General Court Martial in the case referred to, eight have already been released and the remaining nine, who were given longer sentences, are still in jail. The releases already ordered are the result of the normal practice, by which His Excellency the Commander-in-Chief reviews periodically the sentences of all persons convicted by courts martial; but with this difference that in the present case, His Excellency has directed that the sentences should come up to him for review earlier than is usual. Those who have already been released had served only about half their sentences.

The Honourable Member will, I am sure, realise that the offence for which these prisoners were convicted was a most serious one and that it was necessary in the interests of the discipline of the Army as a whole, to take that fact into consideration in awarding the sentences. The sentences themselves varied according to the degree of culpability of each accused: and what I have already said will, I hope, show that although there can be no question of releasing all the remaining prisoners together, His Excellency the Commander-in-Chief has given, and will continue to give, the case of individuals the most careful consideration.

DISPUTES OVER ARREAR PAYMENTS, ETC., BETWEEN THE CONTRACTORS AND THE KANGRA VALLEY RAILWAY ADMINISTRATION.

1654. *Bhai Parma Nand: Will Government please state:

- (a) whether, with reference to the reply given by them on the 7th November, 1932, to question No. 868, (c) and (d), it is a fact that the case of Contractor Balwant Singh, under reference to the High Court, Lahore, has since been decided in favour of the contractor;
- (b) whether in the case of Durrell and Company, that was pending in the Court of the Senior Sub-Judge, Dharamsala, the North Western Railway have submitted to refer the case to arbitration on the score of the decision of the High Court, Lahore, in the case of Balwant Singh, contractor; and
- (c) whether the North Western Railway Administration have considered the advisability of referring the third case to arbitration, so that they are saved the expenses of litigation?

Mr. P. R. Rau: (a) Yes.

(b) Yes.

(c) I understand it has been decided by the administration after careful consideration and on legal advice to fight the case if it is taken to court.

SCRUB JUNGLE BETWEEN THE BAIRD ROAD AND THE CANTONMENT ROAD, NEW DELHI.

1655. *Mr. B. N. Misra: (a) Are Government aware that there is a scrub jungle between the Baird Road and the Cantonment Road, New Delhi (near the Tonga Stand)? If so, have Government considered the desirability of taking steps to have the jungle removed at an early date? If not, why not? Are Government aware that the jungle is the abode of snakes, jackals, mosquitoes, flies, etc.?

(b) Are Government aware that the inhabitants of the locality are afraid of using the back doors of their houses during the day time even, not to speak of night time, on account of the refuses which are deposited there? Are Government aware that it is injurious to the health of the tenants of the locality from a sanitary point of view?

Mr. G. S. Bajpai: (a) and (b). The Honourable Member is perhaps referring to a small closed Muhammadan grave-yard measuring about 300 square yards. Government have not precisely investigated the nature and extent of its zoological population but have no reason to believe that it is so dangerous as the Honourable Member appears to think. There are also no visible signs of insanitation there. The policy of Government is not to interfere with areas devoted to the disposal of the dead.

INSOLVENCY OF THE EMPLOYEES OF THE IMPERIAL SECRETARIAT.

1656. *Mr. B. N. Misra: (a) Are Government aware that a number of their employees employed in the Imperial Secretariat have of late applied to be or have been declared insolvent? If so, will Government please place a statement on the table of the House showing the number of such employees in each department for the three years ending October, 1932, together with the amount shown against them as their assets and liabilities?

(b) Do Government consider insolvency a misconduct under the Government Servants' Conduct Rules? If so, will they please state what action, if any, they have already taken or propose to take in the matter, to prevent a recurrence of such cases?

The Honourable Mr. H. G. Haig: (a) In all six clerks or assistants applied during this period to be declared insolvent or announced their intention of applying, and in addition three others were actually declared insolvent. Of the above, three are no longer in Government service.

(b) The attention of the Honourable Member is invited to rule 16 of the Government Servants' Conduct Rules.

SCHOOL FOR THE TRAINING OF GROUND AND MOTOR ENGINEERS IN INDIA.

1657. *Mr. Arthur Moore: Will Government please state whether it is proposed to start a school for the training of ground and motor engineers in India?

The Honourable Sir Frank Noyce: Proposals for the establishment of a school for the training of mechanics and ground engineers for civil aviation have been under examination, but no conclusions have been reached.

RATE WAR STARTED BY THE BRITISH INDIA STEAM NAVIGATION COMPANY.

1658. *Dr. Ziauddin Ahmad: (a) Are Government aware that the British India Steam Navigation Company reduced the Chittagong-Rangoon deck fare gradually to nil, even rewarding passengers with handkerchiefs and oranges soon after the establishment of the Bengal Steam Navigation Company in 1912 and that on the latter going into liquidation in 1911, the former doubled the fare and continued it till 1927? Is it a fact that on the establishment of Bengal Burma Steam Navigation Company the British India Steam Navigation Company again reduced its fare and

freight to less than half? Is it also a fact that when the Bengal Steam Navigation Company suspended services temporarily to repair their boat, the British India Steam Navigation Company raised the fare by Rs. 2? If not, what are the facts?

(b) Are Government prepared to take necessary steps to stop the rate war now started by the British India Steam Navigation Company?

The Honourable Sir Joseph Shore: (a) As regards the competition between the British India Steam Navigation Company and the Bengal Steam Navigation Company in 1910-11 the Government of India are not in possession of authentic information on the subject. As to the reduction of rates by the British India Steam Navigation Company as against the Bengal Steam Navigation Company the attention of the Honourable Member is invited to the reply to part (b) of his question No. 987 asked in this House on the 8th November, 1932. The Government of India understand that the British India Steam Navigation Company raised their fares for deck passengers between Chittagong and Rangoon by Rs. 2 in July, 1932.

(b) The matter is at present engaging the attention of the Government of India.

RESOLUTION OF THE UNITED PROVINCES LEGISLATIVE COUNCIL RE FURTHER RETRENCHMENT IN THE CENTRALLY-MANAGED DEPARTMENTS.

1659. ***Dr. Ziauddin Ahmad:** (a) Is it a fact that the Provincial Legislative Council of the United Provinces passed a resolution asking the Government of India to carry on further retrenchments in centrally managed departments?

(b) What action do Government propose to take on the suggestion of the United Provinces Legislative Council?

(c) Will the 10 per cent. cut in salaries continue in the financial year 1933-34?

The Honourable Mr. H. G. Haig: (a) The Honourable Member presumably refers to a Resolution which I have seen reported in the Press in regard to the All-India Services.

(b) The Resolution has not yet been received by the Government of India.

(c) I am not able to add anything to the reply given by the Honourable the Finance Member to starred question No. 1478 asked by Mr. Goswami Puri on the 28th November, 1932.

Mr. F. E. James: May I ask whether Provincial Governments are free to restore the cuts in the Provincial Services in the event of an improvement in Provincial Finances, or are the Provincial Services and the Imperial Services to be taken together for the purpose of the restoration of cuts?

The Honourable Mr. H. G. Haig: That is a rather complicated question to address to the Home Department and, I am afraid, I could not attempt to answer it without notice.

Dr. Ziauddin Ahmad: May I ask whether there is any system under which Resolutions passed by Provincial Councils are regularly sent to the Government of India?

The Honourable Mr. H. G. Haig: I have no doubt that the Local Government will in due course forward a copy of the Resolution with their own recommendations.

Dr. Ziauddin Ahmad: During the time of the present Councils and the present Legislative Assembly?

The Honourable Mr. H. G. Haig: I hope so, Sir. The new constitution is not quite upon us yet.

CHARGES FOR METER RENT AND WATER CONSUMPTION IN PRIVATE HOUSES IN NEW DELHI.

1660. ***Kumar Gupteshwar Prasad Singh** (on behalf of Mr. Uppi Sahab Bahadur): (a) Is it a fact that in privately-owned houses in New Delhi a meter rent of Rs. 2 p. m. and a minimum charge of Rs. 3 p. m. (i.e., a total of Rs. 5 a month) are levied for water consumption?

(b) Is it a fact that the minimum charge of Rs. 3 p. m. (which according to the prescribed rate of 6 annas per 1,000 gallons, covers the cost of 8,000 gallons of water) is levied irrespective of the actual amount of consumption, i.e., even if the actual consumption be far below 8,000 gallons, say 8 gallons only?

(c) If the replies to parts (a) and (b) above are in the affirmative, do Government propose to consider the desirability of levying charges on the basis of the actual amount of consumption every month as is done in the case of electric charges?

Mr. G. S. Bajpai: (a) and (b). Yes.

(c) The question concerns the Municipality. Government understand that a minimum charge is necessary to enable the Committee to cover interest on capital and overhead charges.

CHARGES FOR METER RENT AND WATER CONSUMPTION IN PRIVATE HOUSES IN NEW DELHI.

1661. ***Kumar Gupteshwar Prasad Singh** (on behalf of Mr. Uppi Sahab Bahadur): (a) Is it a fact that a minimum charge of Rs. 5 p. m. (viz., Rs. 3 on account of water consumption and Rs. 2 on account of meter rent) is levied in the case of privately-owned houses in New Delhi on account of water consumption?

(b) What are the water charges levied in the case of Government clerks' quarters in New Delhi? Is any meter rent charged and if so, what? Are the charges for water consumption made on the basis of actual consumption every month or some minimum amount is charged irrespective of the quantity consumed?

(c) If the replies to parts (a) and (b) above show that charges in the two cases referred to are made on different bases, what are the reasons for such differentiation, and do Government propose to make the system uniform in both the cases?

Mr. G. S. Bajpai: (a) Yes.

(b) A statement giving the required information is laid on the table. No rent for meters is charged as these belong to Government.

(c) It is proposed to meter all connections in clerks' quarters shortly. The system of charges according to consumption, subject to a prescribed minimum, will then apply to them. The only difference between Government and private quarters would then be that in the case of clerks' quarters the minimum charge would be lower. This is probably due to the fact that the charge for private residences has been made on the analogy of residences of Government Gazetted Officers. If any owners or occupants of private buildings feel aggrieved by this, it is open to them to make representations to the New Delhi Municipal Committee.

Statement showing water charges levied in case of Government Clerks' Quarters in New Delhi.

1. *Unorthodox Clerks' quarters (metered).* Rs. 1-8-0 per mensem per quarter. This covers a net supply up to 4,000 gallons. Any consumption in excess is charged for at Rs. 6 a 1,000 gallons.
2. *Orthodox Clerks' quarters (unmetered) :—*

Class.	No. of taps allowed for each class.	Rate.	Remarks.
		Rs. a. p.	
A.	3	3 0 0 per mensem.	For every tap in excess of the fixed scale, a charge of Rs. 0-8-0 per mensem is levied.
B.	2	2 0 0 „	
C.	2	2 0 0 „	
D.	1	1 8 0 „	
E.	1	1 8 0 „	

RE-INSTATEMENT OF MR. DAULAT RAM, ACCOUNTANT OF THE HORTICULTURAL DIVISION, DELHI.

1662. ***Mr. S. G. Jog:** (a) Is it a fact that one Mr. Daulat Ram, Accountant of the Horticultural Division, was discharged by the Police in the Horticultural Division case in October, 1931, in the same circumstances as Mr. Edge who was involved in the Barakhamba case? If so, will Government please state why the former has not yet been reinstated in his appointment, although the latter was taken back immediately after his release by the Police?

(b) Do the circumstances of the two cases differ? If so, will Government please state how the two cases differ?

The Honourable Sir George Schuster: Enquiry is being made and a reply will be laid on the table in due course.

ABOLITION OF APPOINTMENTS IN THE POST OFFICES AND RAILWAY MAIL SERVICE AS A RETRENCHMENT MEASURE.

1663. ***Mr. S. C. Mitra:** (a) Will Government be pleased to furnish a statement showing the number of selection grade appointments in the grade of Rs. 160—250 and Rs. 250—350 and time-scale appointments that have been abolished as a retrenchment measure up till now in the Post Offices and Railway Mail Services in each circle as well as in each of the presidency towns of Calcutta, Bombay and Madras?

(b) Is it a fact that the number of selection grade posts which have been abolished is proportionately larger in the Bengal and Assam Circle?

(c) If so, will Government state the reasons?

Mr. T. Ryan: (a), (b) and (c). Government regret that the information required by the Honourable Member is not readily available. On account of the heavy fall in postal traffic within the last two years and the urgent need for economy, Heads of Postal Circles are taking steps to abolish all posts which are found to be in excess of actual requirements.

UNSTARRED QUESTIONS AND ANSWERS.

TRANSFER OF THE OFFICES OF THE SUPERINTENDENTS OF POST OFFICES OF HOOGHLY AND PRESIDENCY DIVISIONS FROM CALCUTTA TO CHINSURA AND BARRACKPORE, RESPECTIVELY.

227. **Mr. S. C. Mitra:** (a) Will Government be pleased to state whether it is a fact that the offices of the Superintendents of Post Offices of Hooghly and Presidency Divisions in the Bengal and Assam Circle were transferred to Chinsura and Barrackpore respectively from Calcutta on the grounds of economy?

(b) Is it a fact that now Government contemplate to retransfer the office of the Superintendent of Post Offices, Presidency Division, to Calcutta?

(c) If the reply to (b) be in the affirmative, will Government be pleased to state what is the reason for retransfer? What was the actual expenditure at the time of transfer of the office from Calcutta to Barrackpore and what will be the expenditure now? What amount will be expended on account of compensatory allowance, house rent allowance, etc., for the Superintendent, Head Clerk, Inspector and other staff, if the office is transferred to Calcutta and what is the present expenditure on those items?

Mr. T. Ryan: (a) Yes, but the reasons for the transfer were administrative; though some economies did result.

(b) and (c). Government have no information. The headquarters of each Divisional Superintendent of Post Offices are fixed by the Head of the Postal Circle concerned. A copy of the question is being sent to the Postmaster General, Bengal and Assam.

CLERKS AND SIGNALLERS IN THE STRAND ROAD AND CORNWALLIS STREET SUB-POST OFFICES, CALCUTTA.

228. **Mr. S. C. Mitra:** (a) Will Government please furnish a statement showing (i) the number of clerks and signallers in the Strand Road combined town sub-post office and (ii) the number of clerks in the Cornwallis Street town sub-post office, Calcutta?

(b) Is it a fact that the Strand Road Post Office is more important than the Cornwallis Street Post Office and the former is in charge of a time-scale sub-postmaster while the latter is in charge of a selection grade sub-postmaster?

(c) Is it a fact that the Postal Enquiry Committee recommended that an office with five clerks should be placed under the charge of a selection grade official? If so, are Government prepared to sanction a selection grade post for the Strand Road Post Office? If not, why not?

Mr. T. Ryan: (a) (i) Five

(ii) Six.

(b) No, the Cornwallis Street town sub-post office is the more important. The scales of pay of the two sub-postmasters are as stated by the Honourable Member.

(c) The reply to the first part of this question is in the affirmative. As regards the second part, the matter will be decided on the receipt from the Postmaster General, Bengal and Assam, of definite recommendations which are being called for.

OVERTIME ALLOWANCE FOR SORTING OF ENGLISH MAILS IN THE GENERAL POST OFFICE, CALCUTTA.

229. **Mr. S. C. Mitra:** (a) Is it a fact that inward English mails are sorted in the Calcutta General Post Office by drafting clerks from other departments without payment of any overtime allowance?

(b) Is it also a fact that the Assistant Postmaster in charge of the sorting gets overtime allowance, although he performs this duty within his duty hours, i.e., between 10-0 A.M. and 6-0 P.M. on week days?

(c) Will Government please state why overtime allowance is paid to the Assistant Postmaster, although it is denied to other clerks?

Mr. T. Ryan: (a) Yes. The Honourable Member's attention is invited to part (a) of his starred question No. 794 in this House on the 14th March, 1932, and to its reply which was laid on the table on the 5th September, 1932.

(b) and (c). Inquiries are being made and the result will be laid on the table in due course.

ABOLITION OF APPOINTMENTS IN OFFICERS' RANK IN THE POSTS AND TELEGRAPHS DEPARTMENT.

230. **Mr. S. C. Mitra:** Will Government please furnish a statement showing:

(a) the total number of appointments in the officer's rank that existed in the Post and Telegraphs Department at the end of the year 1929 and the total amount of pay and allowances they carried; and

(b) the total number of such appointments abolished up to 31st October, 1932, and the total amount of annual saving effected thereby?

Mr. T. Ryan: (a) The total number of posts of Officer's rank in 1929 was 574 and the total pay and allowances they carried was approximately Rs. 48,22,000 a year.

(b) The total number of such posts abolished is 65 and the total annual saving effected is about Rs. 5,43,000.

ABOLITION OF APPOINTMENTS OF SUPERINTENDENTS OF POST OFFICES AND RAILWAY MAIL SERVICE.

231. **Mr. S. C. Mitra:** (a) Will Government please furnish a statement showing, circle by circle, the number of appointments of Superintendents of Post Offices and Railway Mail Service abolished up to 31st October, 1932, and the total amount of annual saving effected thereby?

(b) What number of such appointments was recommended for abolition by the Post and Telegraphs Retrenchment Advisory Committee?

(c) Have Government given full effect to the recommendation? If not, why not?

Mr. T. Ryan: (a) The figures are as follows:

Name of Circle.	No. of posts abolished up to 31st October, 1932.	Average annual saving effected (excluding allowances attached).
Bengal and Assam	8	Rs. 40,940
Bihar and Orissa	2	12,582
Bombay	7	28,358
Burma	2	12,582
Central	2	12,582
Madras	6	32,006
Punjab and N.-W. F.	4	25,164
Sind and Baluchistan	1	6,291
United Provinces	3	18,873

(b) 33.

(c) The reply to the first part is in the affirmative. Two posts have, in addition, been abolished as the result of reorganisation of work in the Railway Mail Service. The latter part does not arise.

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ABOLITION OF APPOINTMENTS OF TELEGRAPH MASTERS AND TELEGRAPHISTS.

232. **Mr. S. C. Mitra:** (a) Will Government please furnish a statement showing:

- the total number of appointments of Telegraph Masters and Telegraphists, respectively, that existed up to the end of the year 1929;
- the number of appointments of Telegraph Masters and Telegraphists abolished or absorbed up to 31st October, 1932, and the total amount of annual saving effected thereby; and
- what number of such appointments was recommended for abolition or absorption by the Post and Telegraphs Retrenchment Advisory Committee and on what grounds?

(b) Have Government given full effect to the recommendation? If not, why not?

Mr. T. Ryan: (a) The information is given in the subjoined table:

(i) Total number of posts of Telegraph Masters and Telegraphists in 1929.	(ii) Total number abolished or absorbed up to October, 1932 and annual Saving.	(iii) Total number recommended for abolition or absorption by the Posts and Telegraphs Retrenchment Sub-Committee and grounds for recommendation.
Telegraph Masters . . . 328 Telegraphists . . . 2,830	Telegraph Masters. . . 48 Telegraphists . . . 184 Annual Saving Rs. . . 53,600	Telegraph Masters . . . 140 Telegraphists . . . 228 The reasons are given in paragraphs 162 and 168 of the Committee's Report a copy of which is in the Library of the House.

(b) Partial effect has already been given to the recommendations of the Sub-Committee, and further orders are under issue.

APPOINTMENTS OF DEPUTY SUPERINTENDENTS, TELEGRAPHS.

233. **Mr. S. C. Mitra:** (a) Will Government please furnish a statement showing the total number of appointments of Deputy Superintendents Telegraphs, that existed at the end of the year 1929 and the total number of such appointments abolished up to 31st October, 1932?

(b) What is the approximate annual saving effected by the abolition?

Mr. T. Ryan: (a) and (b). The information is given in the subjoined table:

(1) Total number of posts of Deputy Superintendents, Telegraph Traffic, in 1929.	(2) Number of posts actually abolished up to October, 1932.	(3) Annual saving.
51	1	Rs. 5,065

ABOLITION OF APPOINTMENTS IN THE TELEGRAPH ENGINEERING BRANCH.

234. **Mr. S. C. Mitra:** Will Government please furnish a statement showing the total number of appointments in the Telegraph Engineering Branch abolished up to 31st October, 1932, and the total amount of annual saving effected thereby?

Mr. T. Ryan: The information is given in the subjoined table:

Total number of posts in the Telegraph Engineering Branch of the Indian Posts and Telegraphs Department abolished up to October, 1932.	Total amount of annual saving (average) effected.
328	Rs. 2,43,000

APPOINTMENTS IN CERTAIN POSTAL CADRES.

235. **Mr. S. C. Mitra:** Will Government please state the total number of appointments in the following cadres that existed up to the end of the year 1929:

- Higher selection grade of Rs. 250—350 in the Post Offices,
- Higher selection grade of Rs. 250—350 in the Railway Mail Service,
- Inspectors of Post Offices and Railway Mail Service including Investigating Inspectors,
- Head Clerks to Superintendents,
- Town Inspectors in Selection Grades,
- Lower Selection Grade of Rs. 160—250 in the Post Office excluding appointments of Inspectors of Post Offices and Superintendents' Head Clerks,
- Lower Selection Grade of Rs. 160—250 in the Railway Mail Service excluding appointments of Inspectors, Railway Mail Service and Superintendents' Head Clerks,
- Postal Clerks in ordinary time-scale,
- Postal Clerks in Lower Division,
- Railway Mail Service Sorters in the ordinary time-scale, and
- Railway Mail Service Sorters in Lower Division?

Mr. T. Ryan: I propose to deal with two questions Nos. 235 and 236 together.

Government regret that the information required for purposes of question No. 235 and part (a) of question No. 236 is not readily available. The position is that on account of the very heavy fall in both postal and telegraph traffic during the last two years and of the unsatisfactory state of the finances in the Posts and Telegraphs Department, Heads of Postal Circles have taken, and are continuing to take, steps towards securing all reasonable economies, and posts not only of the classes mentioned by the Honourable Member but also of other classes, which are found in excess of actual requirements, are being abolished, or reduced from a higher to a lower scale of pay.

The remaining parts of question No. 286 are replied to as follows:

(b) The Honourable Member's attention is invited to the reply given in this House to his starred question No. 208, on the 18th September, 1982, and to what I have just stated.

(c) No. The second part of the question does not arise.

(d) The Committee recommended that 83 per cent. of the clerical cadre should be converted into lower division posts. To give effect to this recommendation and in view of the pressing need for economy it has become necessary to adopt measures for the abolition of posts in the ordinary clerical time-scale or for their conversion into lower division posts.

(e) Yes.

ABOLITION OF APPOINTMENTS IN CERTAIN POSTAL CADRES.

† 236. **Mr. S. O. Mitra:** (a) Will Government please furnish a statement showing, circle by circle, the number of appointments abolished up to 31st October, 1982, and the approximate annual saving effected thereby in each of the following cadres:

- (i) Higher selection grade of Rs. 250—350 in the Post Offices,
- (ii) Higher selection grade of Rs. 250—350 in the Railway Mail Service;
- (iii) Inspectors of Post Offices and Railway Mail Service including Investigating Inspectors;
- (iv) Head Clerks to Superintendents of Post Offices and Railway Mail Service;
- (v) Town Inspectors in Selection Grade;
- (vi) Lower selection grade of Rs. 160—250 in the Post Office excluding Inspectors of Post Offices and Superintendents' Head Clerks;
- (vii) Lower selection grade in the Railway Mail Service excluding Inspectors, Railway Mail Service and Superintendents' Head Clerks;
- (viii) Postal Clerks in ordinary time-scale; and
- (ix) Railway Mail Service sorters in ordinary time-scale?

(b) Did the Post and Telegraphs Retrenchment Advisory Committee recommend any reduction of selection grade appointments in the Post Offices and Railway Mail Service? If not, what are the grounds for reduction of such appointments and what is the criterion that is being followed in effecting such reductions?

(c) Is it not a fact that the percentage of selection grade appointments in the Telegraph Branch is considerably higher than those in the Post Offices and Railway Mail Service? If so, will Government please state the reasons for such disparity?

(d) Did the Post and Telegraphs Retrenchment Advisory Committee recommend any reduction of time-scale clerical appointments in the Post Offices and Railway Mail Service? If not, what are the reasons for reduction in these appointments and what is the criterion that is being followed in effecting such reductions?

† For answer to this question, see answer to question No. 235.

(e) Are the reductions in the selection grade and time-scale appointments in the Post Offices and Railway Mail Service being effected in conformity with a strict standard of efficiency?

ABOLITION OF APPOINTMENTS IN CERTAIN POSTAL CADRES.

237. **Mr. S. O. Mitra:** (a) Will Government please furnish a statement showing, circle by circle, the figures up to 31st October, 1982, the number of posts abolished and the approximate annual saving effected in each of the following cadres:

- (i) Overseers,
- (ii) Postmen and Village Postmen,
- (iii) Mailpeons,
- (iv) Packers,
- (v) Vanpeons, and
- (vi) Messengers and Runners?

(b) Is there any time-test for regulating the number of the staff in the above cadres? If not, what standard is being followed in effecting the reductions?

Mr. T. Ryan: (a) Government regret that the information is not readily available.

(b) There are rough standards for regulating the number of some classes of staff referred to but no precise time test. On account of the heavy fall in postal traffic within the last two years and the urgent need for economy, Heads of Postal Circles are taking steps to reduce all posts which are found to be in excess of actual requirements.

DEPARTMENTAL SUB AND BRANCH POST OFFICES CONVERTED INTO EXTRA DEPARTMENTAL OFFICES.

238. **Mr. S. O. Mitra:** (a) Will Government please furnish a statement showing, circle by circle, the number of Departmental Sub and Branch Post Offices converted into extra Departmental Offices up to 31st October, 1982?

(b) What is the criterion followed in effecting such conversions?

Mr. T. Ryan: (a) The latest figures available are those for the period ending the 31st August, 1982, and are as follows:

	Sub Offices.	Branch Offices.
Bengal and Assam Circle	64	83
Bihar and Orissa Circle	43	60
Bombay Circle	nil.	53
Burma Circle	28	22
Central Circle	7	31
Madras Circle	18	43
Punjab and N.-W. F. Circle	50	66
Sind and Baluchistan Circle	1	5
United Provinces Circle	75	37

(b) There is no fixed criterion, but an extension of the system of employing Extra-Departmental Agents to hold charge of small post offices was recommended by the Post and Telegraphs Sub-Committee of the Retrenchment Advisory Committee as likely to result in important economies and such an extension is now being carried out wherever conditions permit.

REDUCTION IN THE NUMBER OF RAILWAY MAIL SERVICE SETS.

239. **Mr. S. O. Mitra:** Will Government please furnish a statement showing the number of Railway Mail Service sets reduced up to 31st October, 1982, and the names of Railway Mail Service Divisions concerned in such reduction?

Mr. T. Ryan: Government are not in possession of the information for which the Honourable Member has asked. Under the general orders issued in July, 1980, the Head of each Postal Circle is authorised to re-examine the number of sets in each of the Railway Mail Service sections under his control, and to re-adjust them where necessary.

EXPIRY OF TEN PER CENT. EMERGENCY CUT.

240. **Mr. S. O. Mitra:** (a) Has the attention of Government been drawn to the report published in the *Hindustan Times*, dated the 18th October, 1982, from its special correspondent under the caption "Battle over 10 per cent. cut"?

(b) If the reply to part (a) be in the affirmative, will Government please state if there is any prospect of the emergency cuts on salaries being terminated on the expiry of March, 1982?

(c) If the reply to the above be in the negative, will the cuts be continued at the present rates or at revised rates?

(d) Is there any prospect of the lower-paid staff drawing below Rs. 40 per month in the Railways and Post and Telegraphs Departments being exempted from salary cuts as in other departments? If not, why not?

The Honourable Sir George Schuster: (a) Government have seen the article referred to.

(b), (c) and (d). I have nothing to add to the replies given to starred questions Nos. 143 and 1478.

REVISED SCALES OF PAY FOR FUTURE ENTRANTS.

241. **Mr. S. O. Mitra:** (a) Will Government please state if any decision has been arrived at in the matter of revised scales of pay for future entrants and the date from which they will be introduced?

(b) If the reply to the above be in the affirmative, will the scales of pay be revised both for the higher and subordinate services?

(c) Will present incumbents on promotion from lower to higher grades be put in the existing or revised scales of pay?

The Honourable Sir George Schuster: (a), (b) and (c). I would refer the Honourable Member to the reply given by me to starred question No. 1456 on the 28th November, 1982.

STRICTURES PASSED BY A GUJRANWALA MAGISTRATE IN THE CASE OF CROWN VERSUS HAVELI RAM.

242. **Mr. S. O. Mitra:** (a) Has the attention of Government been drawn to the severe strictures passed by Ch. Partab Singh, First Class Magistrate, Gujranwala, on the conduct of Mian Ahmed Said, Superintendent of Post Offices and B. Mohammed Shafi, Clerk, Ladhewala Waraich in the judgment delivered by him in the case of Crown vs. Haveli Ram?

(b) If the reply to part (a) be in the affirmative, what action do Government propose to take against the above-named persons?

(c) What is the total amount of expenditure incurred by Government in connection with the case?

(d) Do Government propose to recover the whole of the amount expended in the case from Mian Ahmed Said? If not, why not?

Mr. T. Ryan: (a) Government have seen the observations to which they understand the question refers, but do not think they amount to "severe strictures".

(b) and (d). Certain enquiries are being made and Government have not yet decided whether any action is necessary.

(c) Government have no precise information.

STATEMENTS LAID ON THE TABLE

The Honourable Sir George Schuster (Finance Member): Sir, I beg to lay on the table the information promised in reply to unstarred questions Nos. 210 to 213 asked by Khan Bahadur Haji Wajihuddin on the 21st November, 1982.

COMMUNAL COMPOSITION OF THE OFFICE OF THE ACCOUNTANT GENERAL, UNITED PROVINCES.

210. The communal composition so far as Muslims are concerned is not exactly as stated by the Honourable Member in his question. The following statement shows full details:

Total number of posts.	Posts held by Mussalmans.
5 Assistant Accounts Officers	Nil.
43 Permanent subordinate service Accountants including 4 senior Accountants of the All-India List. In addition there is one post sanctioned up to February 1983.	Nil.
387 Clerks (378 Permanent and 9 temporary)	42 permanent and 1 officiating
12 Typists (11 permanent and 1 temporary)	1 Permanent.
13 Record Clerks (11 permanent and 2 temporary)	2 Permanent and 1 temporary.

CONFIRMATION OF MUSLIM CLERKS IN THE OFFICE OF THE ACCOUNTANT GENERAL, UNITED PROVINCES.

211. (a) Yes; the number was 34, and it was reduced to 10, not 11.
 (b) Yes, 55 clerks only have been confirmed.
 (c) Nine out of ten temporary Muslim clerks and six of other minority communities have been confirmed.
 (d) Of vacancies occurring since March, 1926, one-third have been either actually filled by members of the minority communities, or reserved for them. In view of the temporary suspension by Government of permanent promotions of persons not in Government service prior to the 16th July, 1931, members of the minority communities recruited subsequent to the 15th July, 1931, have not been confirmed, but have been appointed to officiate against permanent vacancies. The re-appointment of discharged clerks is made according to seniority subject to the condition that one out of every three vacancies is given to a member of the minority communities.

PROPOSED REMOVAL OF TWO MUSLIM TEMPORARY CLERKS IN THE UNITED PROVINCES ACCOUNTS OFFICE.

212. On the abolition of the machine system and the consequent discharge of the machinists, two of them (one Muslim and one Hindu) were retained as typists. The Auditor General has not issued any orders that 2 senior Muslim discharged clerks should replace two Muslim machinists. The discharged clerks and machinists will be re-employed as vacancies occur with due regard to seniority and communal proportions. One such discharged Muslim clerk who is senior to the discharged machinists has been reappointed recently.

SAFEGUARDING OF MUSLIM INTERESTS IN THE OFFICE OF THE ACCOUNTANT GENERAL, UNITED PROVINCES.

213. Instructions were issued on 9th November, 1929, which might have been construed in the sense suggested by the Honourable Member, but a circular letter, issued on 26th November, 1929, made it clear that only one-third of all future vacancies should go to members of minority communities, and the latter instructions were followed. Retrenchment of temporary clerks was made in accordance with the instructions issued by the Government of India on the subject. It is not a fact that all Muslim clerks recruited between 1926 and 1931 have been discharged. Three of such clerks have been made permanent recently and another Muslim clerk has been re-employed.

The abolition of certain permanent posts in consequence of the relaxation of audit affects the interests of all the communities proportionately.

There are eight vacancies due to the deputation of permanent men of both majority and minority communities to other offices. No officiating arrangements have yet been made owing to the small number of men on leave. They will be filled up as and when the necessity arises.

The Honourable Mr. H. G. Haig (Home Member): Sir, I lay on the table the information promised in reply to starred question No. 1118 asked by Mr. S. C. Mitra on the 14th November, 1932.

INSUFFICIENCY OF CLOTHES PROVIDED FOR PRISONERS IN THE AJMER CENTRAL JAIL.

1118.* In most of the centrally administered areas, prisoners in jail are supplied with two sets of garments. Where they are provided with only one they are also given, in addition, a *langot* or a loin cloth. In the Ajmer Central Jail, prisoners are provided with one garment and in addition, one *langot* or *rumali* and one large towel.

Mr. G. S. Bajpai (Secretary, Department of Education, Health and Lands): Sir, I lay on the table the information promised in reply to starred question No. 1457 asked by Mr. Muhammad Yamin Khan on the 28th November, 1932.

1457.* (a) (i) The road, to which the Honourable Member refers, is a pucca road belonging to the Delhi Municipality whose surface has become overlaid with dust from building rubbish not filth which has been thrown on both sides of it. Its condition is not a menace to the health of the locality nor has the health officer suggested that it is. When the attention of the Chairman of the Municipality was drawn to its present state, he visited it and steps have been taken to improve its condition. The question of removing the mounds of earth which have accumulated in front of the Turkman Gate is also under consideration.

Mr. T. Ryan (Director General of Posts and Telegraphs): Sir, I lay on the table the information promised in reply to parts (b) to (d) of starred question No. 1246 asked by Mr. Bhuput Sing on the 16th November, 1932.

DELAY IN DELIVERING AN INSURED LETTER SENT BY ONE MR. SRI PRAKASH FROM THE KABIR CHOURA POST OFFICE OF BENARES TO SRI HARI SHANKAR BIDYARTHI, EDITOR OF *DAINIK PRATAP*.

1246.* (b) Yes.

(c) The article was detained in accordance with an order under Ordinance No. 11 of 1932.

(d) Does not arise.

DEATH OF SIR NARASIMHA SARMA.

The Honourable Sir Brojendra Mitter (Leader of the House): Sir, on the opening day of this Session, we had to mourn the death of Sir Ali Imam. Today, another loss claims our grief. Sir Narasimha Sarma, to whose demise I refer, was known to many Members of this House, in which he sat on these Benches, not many years ago, as a Member of the Governor General's Executive Council. Only last month, Sir, he was in Delhi, and those of us who met him then little thought that it was for the last time. After a varied career as teacher and lawyer, Sir Narasimha came into public prominence as an informed and independent spokesman on economic questions in the Old Imperial Legislative Council. At that time, his political views were those of the Indian National Congress which had derived inspiration and counsel from Sir Pherozshah Mehta and Sir Surendra Nath Banerjee. When that body passed under the influence of the left wing, Sir Narasimha, like many other distinguished Indians, severed his connection with it. But that signified no change of his own principles. He remained, ever afterwards, what he had always been, a progressive but practical and constructive politician. During his tenure of office as Member of the Executive Council, Government could always rely on him for independent but sane and helpful counsel. When he relinquished charge of that high post, he was appointed Chairman of the newly-created Railway Rates Advisory Committee for which his legal

[Sir Brojendra Mitter.]
experience and judicial disposition eminently fitted him. His sudden death is a great loss to the Committee and to Government. It must also be a sad bereavement to relatives and friends whom his kindly and affectionate nature had greatly endeared him. On behalf of Government, Sir, I would ask you to convey to his family an expression of our sympathy and sorrow.

Mr. R. K. Shanmukham Chetty (Salem and Coimbatore cum North Arcot: Non-Muhammadan Rural): Sir, I wish to associate Members of the Nationalist Party with the tribute paid to the memory of the late Sir Narasimha Sarma.

Sir Abdur Rahim (Calcutta and Suburbs: Muhammadan Urban): Sir, I wish to associate myself and the Independent Party with whatever has fallen from the Honourable the Leader of the House in respect of the death of Sir Narasimha Sarma. Sir, I first came to know him when he came to Madras to practise in the High Court there. But he practised there for a very short time and devoted most of his time to politics. Sir, he was a prominent figure in the public life of the country and we all know that, as a Member of the Government of India, he rendered very great services to the country. Sir, I wish to associate my Party with the message of condolence that will be sent to his family.

Mr. Muhammad Yamin Khan (Agra Division: Muhammadan Rural): Sir, I knew Sir Narasimha Sarma since 1921 when I came and joined the first Legislative Assembly. I knew that Sir Narasimha was held in great esteem by the Members of both the Houses of the Legislature. I had the honour to sit with him in the other House as well in 1924-25. There I found that all the Members of the Council of State also held him in the same esteem as he was held in the Legislative Assembly. He was one of those Indians who came up as Executive Councillors after the introduction of the first Montagu-Chelmsford Reforms. He was one of the three Indians who were then appointed and he made his mark in the country. I am very sorry for his death, because he was a personal friend of mine. Sir, on behalf of my Party and myself, I associate myself with the motion that has been moved by the Honourable the Leader of the House.

Mr. Arthur Moore (Bengal: European): Sir, it was with great regret that I learnt of the death of Sir Narasimha Sarma, a very distinguished servant of his country. I remember him well as a courteous and gentle statesman; and in his old age in spite of his advancing years he went on serving his country and he died in harness. Sir, I support the motion moved.

Mr. B. Sitaramaraju (Ganjam cum Vizagapatam: Non-Muhammadan Rural): Sir, the late Sir Narasimha Sarma was a resident of the same place where I come from. He was a distinguished son of Andhradesa and I have known him both as a personal friend and one of the greatest men amongst our fellow countrymen. His career was a remarkable one. He started life as a very destitute student and struggled throughout his life against heavy odds with an ability which refused to recognise any

limitations and with a courage which would not be cowed down either by favours or frowns of the Government or the public. Whatever he considered right, he did. Sir, he started his life as a destitute student, then as a teacher on a few rupees a month struggling for the existence of life, and, later on, when his abilities came into play, he became a successful advocate first of the Bar to which I have the honour to belong and afterwards of the Bar of the High Court. Finally, as a politician and as an administrator, he showed remarkable abilities of head and heart. Sir, a few days ago, when I saw him off at the Delhi Railway Station, I did not realise that I was seeing him for the last time. His notable contribution to the Madras Legislative Council was during the debate of the State's Lands Act and, subsequently, he made a great mark in the Imperial Legislative Council particularly in relation to the economic topics and commercial subjects where he showed profound knowledge. Government recognised his abilities and appointed him as one of its Executive Councillors which duty he discharged with great ability and success. So much so that the *ex-Viceroy*, Lord Reading, found that his connection with the Government should not cease and he was appointed as the first President of the Rates Advisory Committee, which office he held until his death. Sir, I associate myself with the motion.

Mr. O. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): Sir, my friend, Mr. Shanmukham Chetty, in my absence, has already associated my Party with what it feels in regard to the passing away of one of our great public men. Sir, I remember the day when Mr. Sarma as he then was, and myself were members of the Indian National Congress. It was the great Amritsar Congress over which the late Pandit Motilal Nehru presided when Sir Narasimha Sarma came to the platform to oppose the resolution which was then moved by the editor of *The Independent*, Mr. Syed Hussain, urging the recall of Lord Chelmsford as the Viceroy of India owing to certain ugly happenings in the Punjab. It was a big surging crowd before which he had to speak. I do not remember any single session of the Congress which had collected such a large number of delegates. That Congress was held in the neighbourhood of the Jallianwala Bagh. Mr. (then) Sarma came to the platform and faced—I should say took up arms—against a surging sea of opposition, on behalf of the Viceroy and explained to the delegates how the Viceroy should not be held responsible when he had to carry on the King's Government. That required some courage. In those days when it was very easy to become popular, it required some courage to come to the platform and face several hundreds, nay several thousands, of delegates and tell them what was most unpleasant to them. Such a man was destined to go very far. Courage was the great characteristic of the public life of Sir Narasimha Sarma. He loved to enjoy what Manu called "the immortality of censure". Such a public man cannot die, for his virtue must live and the spirit that animated him will animate those who emulate him—his great courage—a noble feature in the public life of a country. Sir, I express my sympathies for the bereaved family of Sir Narasimha Sarma.

Mr. K. Ahmed (Rajshahi Division: Muhammadan Rural): Sir, I rise to support the motion of the Honourable the Leader of the Independent Party on the mournful death of the late Sir Narasimha Sarma, who was a very able man in politics. He was an elected Member of the old

[Mr. K. Ahmed.] Sir Narasimha Sarma was a great politician and he had the confidence of the people of his country. He served the old Imperial Legislative Council for many years. He came from the district of Vizagapatam where he practised in the law Courts for many years after which he went to the High Court of Madras. Soon after that, he was appointed a Member of the Executive Council of His Excellency Lord Chelmsford. At that time there was a great commotion in the country about the Jallianwala Bagh. I think it was in the year 1919 when about 19 Members of the old Imperial Legislative Council, of which you, Sir, were also a Member, tendered their resignations to His Excellency Lord Chelmsford as a protest on that happening. Mr. Sarma (as he then was) considered that there must have been some blunder committed over that incident, and he was a right thinking man; he considered the question and he thought that one could get better things from the topmost officer, the topmost man in the Government; and instead of running him down along with the overwhelming agitation in the country, he came out and thought he would support his Government and get something better for the benefit of the country out of him, which he did. He came to the Executive Council and since then things gradually and slowly became better. Conditions improved and many of those 19 Members who tendered their resignation came back in the year 1921 and some of them joined the Assembly in the year 1924, the second reformed Assembly, and things were getting on all right.

Sir Narasimha Sarma was a great politician. He was in charge of the portfolio of Education, Health and Lands; for a short time he was also in charge of the Industries and Labour Department. I think it was in the year 1921 when I was taking a leading part on the question of labour and industry that I had many things to do with him, as will appear from the debates of the Assembly. The great leader who has served the country and the Government is a victim of cruel death that has swept him away from our midst. Only a short time ago—I think last year, the end of 1981 or thereabout—he was feeling unwell and he went to Switzerland, America and many other countries where he was advised to go for a change. He recouped his health and was feeling better when he came back to this country and I met him in Calcutta and found him much better; but he fell a victim again to the same disease and he had to postpone his official duties and go back to his own district of Vizagapatam and stay there for a short time. Cruel death came all on a sudden and snatched away a great patriot of the country. We are feeling today without him very poor. He was really a very good man, a sincere and broadminded man, slow but sure of achievement. I agree with the Leader of the House and I join hands with the other Leaders of Parties and my friends who have expressed their sorrow at the sad demise of Sir Narasimha Sarma. I support the motion that an expression of sorrow at the death of Sir Narasimha Sarma should be sent to his family.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Chair wishes to associate itself with all that has fallen from Honourable Members in regard to the loss which the country has sustained by the demise of Sir Narasimha Sarma. The general elections of 1916 brought to the Imperial Legislative Council two new Members; they were Sir Narasimha Sarma and Mr. Sastri, two men who started their career in all-India matters at the headquarters of the Government of India and proved

very distinguished sons of their motherland. Mr. Sarma, as he then was, immediately took an active interest in the work of the Imperial Legislature and made a mark at the very first Session of the Council. After ably serving as a Member of the Executive Council of the Viceroy he devoted his energies in directions which did not keep him before the public eye, but none the less his services were of great value and importance to his country. Gentlemen, the Chair will carry out the wishes of the House and communicate to the relatives of the deceased the sympathy and sorrow of this House.

THE INDIAN TARIFF (OTTAWA TRADE AGREEMENT) AMENDMENT BILL.

PRESENTATION OF THE REPORT OF THE SELECT COMMITTEE.

The Honourable Sir Joseph Bhore (Member for Commerce and Railways): Sir, I beg to present the Report of the Select Committee on the Bill further to amend the Indian Tariff Act, 1894, for certain purposes.

THE INDIAN MERCHANT SHIPPING (SECOND AMENDMENT) BILL.

The Honourable Sir Joseph Bhore (Member for Commerce and Railways): Sir, I beg to move for leave to introduce a Bill further to amend the Indian Merchant Shipping Act, 1923, for certain purposes. This, I hope, is a non-contentious measure and I have nothing to add at this stage to the statement of objects and reasons.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is: "That leave be granted to introduce a Bill further to amend the Indian Merchant Shipping Act, 1923, for certain purposes."

The motion was adopted.

The Honourable Sir Joseph Bhore: Sir, I introduce the Bill.

THE AUXILIARY FORCE (AMENDMENT) BILL.

Mr. G. R. F. Tottenham (Army Secretary): Sir, I beg to move for leave to introduce a Bill further to amend the Auxiliary Force Act, 1920, for certain purposes.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That leave be granted to introduce a Bill further to amend the Auxiliary Force Act, 1920, for certain purposes."

The motion was adopted.

Mr. G. R. F. Tottenham: Sir, I introduce the Bill.

**THE BENGAL SUPPRESSION OF TERRORIST OUTRAGES
(SUPPLEMENTARY) BILL—contd.**

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Further consideration of the motion for consideration of the Bill to supplement the Bengal Suppression of Terrorist Outrages Act.

Mr. S. C. Sen (Bengal National Chamber of Commerce: Indian Commerce): I rise to a point of order.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): There are amendments which have to be moved

Mr. S. C. Sen: Before the amendments are taken, I rise to a point of order. On the last occasion you will remember, Sir, that the direction which you gave was to this effect:

"The Chair proposes to leave it to the Honourable the Law Member to consider in what form he proposes to re-draft the clause. As the clause stands at present, it does apply to section 107 of the Government of India Act and so far as it applies to that section, it is out of order."

Therefore, Sir, it is incumbent upon the Honourable the Law Member to put before this House an amended and re-drafted clause as directed by you. Instead of re-drafting the clause, he has merely submitted three alternative amendments. He must stick to one of them and he will have to re-draft the clause in the light of the amendments which he intends to propose. Your ruling will be found in Volume VI, No. 5, of the Official Debates of the 14th November at page 2046. You wanted the Honourable the Law Member to consider in what form he proposed to re-draft the clause. Therefore, the clause must be re-drafted and not that he should throw on us three alternative amendments to choose from. He must stick to one of the amendments and he must introduce that amendment in the body of the clause before the Bill can be taken up. That is my point.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member must realise that a clause can be re-drafted by means of amendments. Can it not be done?

Mr. S. C. Sen: Yes, certainly.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): That is exactly what the Honourable the Law Member proposes to do.

Mr. S. C. Sen: There are three alternatives. He must stick to one of them.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Quite so. The Honourable the Law Member proposes to give option to the House to accept such re-draft of the clause as may appeal to them. What is wrong in it? The Chair rules that the motion is quite in order, and when clause 5 comes up, it will be in the discretion of the House to decide in what manner they will amend the clause to meet the ruling given.

Mr. Amar Nath Dutt (Burdwan Division: Non-Muhammadan Rural): On a point of information, Sir. May I know whether we are considering the Bill as introduced and which we have been asked to consider or we are considering the amendments also along with the Bill.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): I do not know whether the Honourable Member was present when the ruling was given. If he had been present, he would have known that the Chair at the initial stage, when the point of order was raised, pointed out that the proper time for raising the point of order was when clause 5 was under the consideration of the House. It was suggested that much of the debate might be curtailed if the ruling was given then, and, as a special case, the Chair agreed with the consent of the House to give its ruling then. The ruling was given, and Government have now offered four alternatives to the House with a view to amend the clause. When the clause is reached, the House will decide in what form it should be amended to meet the ruling. The motion at present is for the consideration of the Bill. If the House rejects that motion, no points of order can arise.

(At this stage Diwan Bahadur Harbilas Sarda rose in his seat.)

Is it another point of order?

Diwan Bahadur Harbilas Sarda (Ajmer-Merwara: General): No, Sir; I want some explanation.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): I do not think we can pursue this subject any further. The point is perfectly clear, and the Chair has made it clear. As a special case, the ruling was given at a stage when it was not necessary to do so. When clause 5 comes up for consideration, all fresh points of order can be raised, but so far as the motion before the House is concerned, namely, to proceed with the consideration of the Bill, it is perfectly in order, and the House will have now to consider it. If the House rejects the motion for consideration no further trouble arises. If the House passes the motion and clause 5 is reached, Honourable Members will be entitled to raise points of order and the Chair will be glad to give any further information which may be necessary.

Mr. Amar Nath Dutt: Our objection is that the Bill exceeds our statutory power.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order: The Honourable Member should have read the proceedings of the House when the point was dealt with. The Chair does not propose to hear anything further on the subject.

Pandit Satyendra Nath Sen (Presidency Division: Non-Muhammadan Rural): Are we now on the consideration motion, Sir?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Yes, and the Chair calls upon Mr. Mitra to move his amendment.

Pandit Satyendra Nath Sen: I rise to a point of order, Sir. My point is that there can be no further consideration of the Bill as it is, i.e., without the amendment being incorporated into the Bill.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order: The Chair has clearly explained the procedure.

Pandit Satyendra Nath Sen: I shall make my point clear, Sir.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The point has already been dealt with.

Pandit Satyendra Nath Sen: I have another point. This is a Bill which contains a clause which has been declared by the Chair as *ultra vires* of this Legislature. In obedience to the Chair's ruling, Government have agreed to propose an amendment in order to make up that defect. That amendment is not yet a part and parcel of the Bill. Suppose the motion for circulation by my friend, Mr. Mitra, or my motion which comes next is passed, then what is the thing that will be sent out for circulation?—This Bill without the amendment is an incomplete thing and is out of order; and the brain of the public will be taxed for nothing on a wrong thing. Then, again, suppose this motion or the next motion or some of the following motions are lost, and the Bill is taken up for consideration clause by clause. When clause 5 is taken up, if the amendment of the Government fails,—there may be some reactionary Members on this side who may take it into their head to oppose that motion, and if they vote against that motion—there may not be sufficient Members of Government present here then, and if the motion is lost, what will be the effect? Clause 5 will be passed. What will be the position then? A thing which is quite out of order will be passed.

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions: Muhammadan Rural): That is impossible according to the ruling of the Chair.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The whole trouble arises because the House asked the Chair, in spite of the warning given to deal with the point of order on an inopportune occasion. If the point of order had not been dealt with then, these difficulties would not have arisen. With regard to the point the Honourable Member has made the Chair wishes to state that in the event of the House accepting the motion for circulation, care will be taken to circulate with the Bill the ruling of the Chair *in extenso*, so that those people who will be asked to express their opinion will know what the ruling of the Chair is and what amendment will have to be made in the Bill before it will be considered again by the House. The difficulty has arisen, because Honourable Members wished for a ruling on an inopportune occasion, and the best thing that can be done in these circumstances is that if the circulation motion is carried, the ruling of the Chair and the proposed amendments to meet it will also be circulated.

Mr. S. O. Mitra (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): Sir, I move:

"That the Bill be circulated for the purpose of eliciting opinion of the various High Courts in India by the end of December, 1932."

I move this motion not with any intention of dilatoriness, because even the Government first intended to take up this measure in the winter Session, and this is only an emergency Session for the purpose of two very important Bills. Before the next winter Session, the House will be in a position to ascertain the views of the various High Courts whose right is being attempted to be curtailed by this piece of legislation. The Honourable the Home Member made it perfectly clear in his speech what was the purpose of this Bill. I quote his exact words. He said:

"We propose that just as the Bengal Act has removed the jurisdiction of the lower Courts, so we should remove the jurisdiction in this matter of the High Courts."

He has not tried to take shelter under any legal phraseology, but he made it perfectly clear. Later on, he says:

"The last provision is contained in clause 5 of the Bill and provides for exclusion of interference of Courts with the proceedings in the Courts of Special Magistrates. In other words, the High Court will not have power to entertain applications in revision."

Though latterly the Honourable the Leader of the House (the Law Member) explained that the High Court's jurisdiction would not be interfered with at least under section 107. But the Honourable the Home Member made it perfectly clear that his purpose in bringing up this legislation was to oust the jurisdiction of the High Court in every possible way.

I do not like to go into details about the terrorist crimes and thus cloud the issue. It is accepted by all in this House that terrorism should be put a stop to by whatever means possible. Times without number we have said that there will be nobody found in this House to support any policy in which opinion is forced on people at the point of the bayonet. The further point that has also been agreed to is that a speedy trial is desirable. We do not join issue on that point also. But the object of this Bill is to curtail appeals and the power of supervision of the High Court . . .

The Honourable Sir Brojendra Mitter (Law Member): Not appeals.

Mr. S. O. Mitra: The Honourable the Law Member does not agree, but I should like to read the three clauses of the Bill which are the only effective clauses. The first clause is clause 3 where it is said that appeals will lie in the city of Calcutta to the High Court against a sentence of a Special Magistrate, and anywhere else in Bengal where the sentence is more than two years transportation, or that of imprisonment for more than four years, an appeal will lie to the High Court. Clause 4 deals with section 19 of the Bengal Act. Section 19 says:

"Except as provided in this Chapter, no proceeding or order purporting to be taken or made under this Chapter shall be called in question by any Court and no civil or criminal proceedings shall be instituted against any person for anything in good faith done or intended to be done under this Chapter."

On a previous occasion I said that this section was worse than martial law, because a bill of indemnity was also included in the clause itself. The third effective clause is clause 5 which says that except as provided in the Act all suits in civil and criminal Courts and appeals are barred. Under all these three clauses, there is nothing against speedy trial. The

[Mr. S. C. Mitra.]

man who has been found to be a terrorist has been tried and judgment of the Court has been given. When the man is already clapped in jail, what is the necessity for the Government to deny him the chances of an appeal? I do not say that the terrorist should not be dealt with drastically and speedily. But, in the hurry of the thing, a non-terrorist may be included and I ask, why he should not have a chance of getting out of the clutches of such drastic laws by an appeal to the Sessions Judge or the High Court.

Since the advent of British rule in India, Indians have highly valued the British Courts of justice. I think if a choice be given between the so-called constitutional programme that is being hatched in London by the R. T. C. and the separation of judicial and executive functions, I think there will be more people preferring the complete separation of the judiciary from the executive control to the so-called progress in reforms. It is not only the agitators that have been fighting for the freedom of the judiciary; it is not only the Indian National Congress that has fought for it for the last 40 years or more; but Liberals and Moderates have all along clamoured for the reform, because British justice is being made fruitless on account of the control of the executive over the judiciary.

I do not propose to argue the constitutional point that has been accepted from the time of Montesquieu, the great political philosopher of France, who said that the three functions of judicial, legislative and the executive should be separate and independent. Unfortunately in India we had no Legislature in the beginning of British rule, and even now there is only a nominal Legislature which is neither separate nor independent of the executive. But we had our Supreme Courts then. They maintained zealously the independence of the Courts of law against executive vagaries. Government also accepted times without number that the separation was essentially necessary, but they pleaded financial stringency. As regards financial considerations, this is what Professor Gilchrist says:

"One reason is financial, but to that I pay no heed, as ways and means can be found if the Government make up its mind to change the system. Financial considerations have never stood, and will never stand in the way of remedy to abuses, provided the abuses are regarded as of sufficient enormity to divert public funds from other channels. In matters of this kind, financially speaking, usually where there is a will there is also a way. Were it a mere matter of finance, the question could at least be solved gradually."

So he goes on. We all know after the acceptance of the principle of separation of judicial and executive functions, we have had this splendid Imperial City costing crores of rupees, we have had schemes like the Back Bay Scheme, Strategic Railways, Meerut Conspiracy Case, and so on to waste public fund. We can do all that, but financial reasons come in the way of carrying out the separation of judicial and executive functions. The little liberty that the judiciary have is a general power of supervision by the High Court. I do not like to enter into other issues, but this Bill is called the Suppression of Terrorists Bill. I have carefully read the sections of the Bengal Bill, but no word is said there about the terrorists. I say that the clauses are framed so loosely and so widely that it may cause trouble to any kind of people. We all accept that terrorism should be put a stop to, but in that connection let not innocent men suffer. Let them have, even after a speedy trial by a Special Court, the rights of appeal to the Sessions Court and the High Courts. That is all we want. Much

has been made about the fact that the High Court of Bombay have held that the powers under section 107 of general supervision will not be interfered with, but the decision of the Bombay High Court is not binding on other Presidency High Courts.

The Honourable Sir Brojendra Mitter: The Calcutta High Court has held the same.

Mr. S. C. Mitra: That might not be the interpretation of other High Courts.

The Honourable Sir Brojendra Mitter: May I point out to the Honourable Member that we are dealing with the Calcutta High Court only and not with other High Courts?

Mr. S. C. Mitra: I am dealing with the general principle as other High Courts might have also to deal with this question under the Ordinances as was evidenced in the Bombay case. As regards the Bombay case, I should like to put before the House the opinion of an ex-Advocate General of Madras, Mr. Venkatarama Sastri.

Speaking of the Bombay decision, he says:

"The schedule to the Government of India Act did not include section 107 of the Act among the sections which the Indian Legislature was authorised to repeal or alter. The result was that Ordinances, just like any other law of the Indian Legislature, could not touch the power of the High Court under section 107."

Later on he says:

"The Chief Justice, in language at once emphatic and restrained, stated that 'it would be very unfortunate if the High Court had no power to correct any irregularity or illegality into which any of these Special Tribunals may fall' and 'he was glad to arrive at the conclusion that the High Court had the power'. Confirmation of this same view comes from the Sind Commissioner's Court. While holding that they had no jurisdiction to interfere and are expressing no opinion on the cases before them by way of confirmation or approval, they said 'Extraordinary and extensive powers have been conferred on a large body of Magistrates, and our experience leads us to suppose that powers of this kind cannot safely be exercised without some sort of supervision. Judges are human and are of diverse temperaments. Different temperaments react differently to the facts of particular cases. In ordinary times the tendency of the High Court is to act as a bulwark of people's rights against executive excesses. But where a state of emergency is declared and Ordinances are passed to meet its requirements and for the peace and good government of the country, one attitude is to be cautious and to feel that there might be grave public risk in interfering with the action of one who is conversant with the local needs of law and order; another attitude of mind is to realise the hardships inflicted and the need for relieving them in order to obviate the risks and dangers arising from non-interference even in extreme cases'."

Then he says:

"Orders to report oneself thrice a day or to report oneself at times and places practically impossible so as to make the person inevitably incur penalties are cases for interference rather than for cautious non-interference. They may justly be described as gross misuse of the power conferred by the Ordinances in a wholly unintended manner."

I should like to show how these drastic provisions are likely to be abused and why this House should be very cautious before they agree to curtail the powers of appeal to the High Court. The Honourable the Home Member, in one of his speeches, referred to the Pahartali and other cases. They are not strictly relevant to this matter; but what are the laws that

[Mr. S. C. Mitra:] Under section 15, a collective fine has been applied now to Chittagong? Under section 15, a collective fine has been imposed on all Hindu population to the extent of Rs. 50,000, in spite of all protests, and Government did not see their way to mitigate the cruel enforcement of these laws in any way. If a man becomes an offender by the mere fact that he says his prayers facing towards the East and not facing to the West. One can understand the criminality of a tribe, but here the discrimination is made between two sets of people living in the same town differing only in their professions or religious faith. That is how this law is administered. If anybody is to be punished in the town of Chittagong, it is the military and the police for whom Government have already incurred an expenditure to the extent of 15 lakhs of rupees in the last few months. It is the inefficient police, who have failed to find out the culprits, who ought to be fined; instead of that, everybody who calls himself a Hindu, be he a boy or an old man, male or female, rich or poor, has been punished by this law. This is the logic Government has come to. It is exactly for this reason, namely, that the judiciary is under the control of the executive, that the powers of the High Court should be jealously guarded and maintained by this House.

The same kind of punishment is meted out in different parts of the country and there is a lurking suspicion that executive orders are being given as to how people should be punished. No one is free. I do not know for certain, but the apprehension is general that the judiciary in this country are controlled by the executive and the only way to ensure justice is that the independence of the Courts of Justice should be maintained and the power of the High Courts should not be curtailed in anyway. Sir, I move that the Bill be circulated for the opinion of the chartered High Courts.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Amendment moved:

"That the Bill be circulated for the purpose of eliciting opinion of the various High Courts in India by the end of December, 1932."

Mr. S. C. Sen: Sir, the motion is that the opinions should be obtained before the 31st December, 1932. We are now today on the 12th of December. The Calcutta High Court, which is most concerned in this matter, will close, I believe, on the 21st of December and will remain closed up to the 3rd of January. So, what practical result would be obtained by the circulation of this Bill to the Calcutta High Court, I do not know. But, Sir, I wish to say something on the merits of this Bill. Sir, we know that there is a terrorist movement in Bengal. We know that the Government have been trying to cope with this movement for the last 27 years. We also know that Government have taken various steps to eradicate this evil. But with what success? Sir, the position now is . . .

Mr. President (The Honourable Sir Ibrahim Rahimtoola): I should like to draw the attention of Honourable Members to the fact that as there are other amendments for circulation, the best procedure will be to have all these amendments before the House and to discuss them together. I would, therefore, call upon Pandit Satyendra Nath Sen to move his amendment, and I will call Mr. S. C. Sen to address the House again at the proper time.

Pandit Satyendra Nath Sen: Sir, I move:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st of January, 1933."

Sir, my friend, Mr. Mitra, has moved his motion for eliciting the opinion of the High Courts only. What I want is that not only the High Courts, but also other Courts as well as Bar Libraries, etc., should be consulted, because this is an extraordinary Bill inasmuch as it seeks to suspend and supplement the ordinary law materially.

Sir, at first sight I thought that this little Bill would be disposed of in five minutes' time, because no right-thinking man would have any sympathy with terrorism. But, Sir, the more I dive into the matter, the more I feel that I am out of my depth. Sir, clauses have been put in a mystic form like the Delphic oracle in explaining which there was a material discrepancy between the statements of the Honourable the Home Member and of the Honourable the Law Member. Sir, the Honourable the Home Member said that "we should remove the jurisdiction, in this matter, of the High Court", while the Honourable the Law Member said that "the powers of superintendence of the High Courts under section 107 of the Government of India Act will remain unaffected". Now, in obedience to the ruling of the Chair, the Government are now prepared to move an amendment. That will take some of the poison out of the objectionable clauses, but still much of the poison remains, and if these objectionable portions are deleted, I would not insist on my motion for circulation.

Sir, from my orthodox culture, I am opposed to terrorism, but I am opposed to terrorism not only when it comes from the people, but also when it comes from the Government, because although we are anxious to stamp out terrorism from the country, that does not imply that the accused persons will not be given a fair trial. Sir, the Government smell terrorism everywhere in Bengal. In fact they hold that every Bengali boy is a potential terrorist or "a lurking assassin" in the language of the Honourable the Home Member. Now, the Government have so long been indulging in terrorism in deeds only and now they want to commit acts of terrorism in trials also, because this Bill implies a denial of justice to accused persons. Sir, what will be the effects of these clauses 4 and 5? They seek to bar the jurisdiction of even the highest Court of justice; appeals and revisions obtainable under ordinary law are sought to be dispensed with; the Habeas Corpus, which ensures one of the elementary rights of a British subject, is to be made inactive. And why all this—only for the purpose of giving us speedy trial? Sir, the speed of British law or rather the absence of speed of British law and, I may say, of British justice, which moves at a snail's pace, is a notorious thing. Sir, in some cases we feel that substantial justice, dispensed expeditiously, as it used to be dispensed in the days of old by the Kazis under Muhammadan rule, is a desideratum. Sir, in some civil cases the finality is reached after some decades. Some of the political prosecutions also are allowed to drag on for years, and no attempt is made to improve the condition in those cases. Now that it suits the purpose of Government, they have come forward to favour us with speedy trial which may not be synonymous with speedy justice. And, in effecting this speedy trial, whom are they going to rely upon? On the District Magistrate, a term, which, for the purposes of this Bill, includes the S. P. and the D. S. P. Sir, we

[Pandit Satyendra Nath Sen:]

have reasons to believe that the Act will be misapplied in Bengal. It does not behove us, therefore, to give ditto to the Act as a matter of form and to strengthen it by a supplementary Bill equally severe in its character. Sir, the Bengal Act arms the Government with unlimited powers. They can now take possession of our immovable property, they can take possession of our moveable property, they have the power to regulate our means of transport, and so on and so forth. And who is to apply this law? Sometimes a half-educated S. P. who is practically the *de facto* District Officer is the misfossil. Sir, although this Bill is very small in size, I think it is much more severe than the big Ordinance Bill which was passed, in this House the other day—not as the result of a fair fight as the Honourable the Home Member put it, but as the result of an unfair fight, because we all know our position and strength in this House. Sir, the Government of Bengal are following a wrong course of treatment. That treatment will only heal up the wound superficially, leaving the sore within as it is, or it may even worsen the condition; it may lead to sinus. We should, therefore, study and examine the case more carefully and determine the best remedy for it.

The Honourable the Home Member quoted the other day some passages from some revolutionary literature. But is there any guarantee that those documents are genuine? The activities of the C. I. D. and the police are a notorious thing in this country. The Honourable Member certainly relied on those two bodies and who does not know what those two bodies are up to. Sir, I shall cite only a simple case which appeared in the *Hindustan Times* of the 9th September this year. This is a report from Lahore:

"In the Kanari Bazar Dacoity Case, Mohinder Singh, son of Bawa Jhanda Singh, a Magistrate, made serious allegations of beating and threats against the police, because of his non-compliance with the alleged police request to give evidence of the nature desired by them. He alleged that the police wanted him to depose that he provided Sardar Dilawar Singh, Municipal Commissioner, who also was arrested and discharged in the same connection, with a revolver for the purpose of the dacoity, threats being held out that his father and uncle might lose their jobs due to his recalcitrance."

Mr. K. Ahmed (Rajshahi Division: Muhammadan Rural): This is the Bengal Suppression of Terrorist Outrages Bill.

Pandit Satyendra Nath Sen: This only illustrates the activities of the police on which the Honourable the Home Member apparently relied in respect of those passages.

Mr. K. Ahmed: But this is 800 miles away from Bengal.

Pandit Satyendra Nath Sen: But the C. I. D. people are everywhere. Sir, in his speech on the last occasion, the Honourable the Home Member made the most of the Pahartali outrage, but he studiously avoided any special reference to the Chittagong riots. The Pahartali outrage was no doubt a very lamentable occurrence, but I think it was attended with very few casualties. (A Voice: "There was one death.")

The Honourable Mr. H. G. Haig (Home Member): Is death not a casualty in the opinion of the Honourable Member?

An Honourable Member: An old European lady died.

Pandit Satyendra Nath Sen: I stand corrected that there was a casualty.

The Honourable Mr. H. G. Haig: No, Sir, there were a great number of casualties. About 10 people were injured and one killed.

Pandit Satyendra Nath Sen: Very well, I stand corrected. But in the case of Chittagong the violence was perpetrated on the entire Hindu community and I think those acts of violence and terrorism were responsible for these revolutionary views. (A Voice: "Were there any casualties?") Certainly, there were. I will give you some illustrations and show how terrorism was perpetrated. Here is an extract from the report of the non-official inquiry into Chittagong riots. Let us see what it says:

"The night of Sunday, the 30th August, was a night of terror in Chittagong. The principal feature of the terror was that the assailants were alleged to be members of the police force, the armed police, Gurkhas and Europeans. They particularly attacked the houses of those who had incurred the displeasure of the local authorities, including political suspects, pleaders who are engaged in the defence of persons accused in the Chittagong Armoury Raid Case, and the man employed in at least one well-known printing press."

Sir, be it said to the credit of the cultured Muhammadans of Chittagong that they had no sympathy with this outrage. The report goes on to say:

"Mr. Nur Ahmed (a respectable Muhammadan citizen and the Chairman of the local Municipality) himself spoke to the District Magistrate about the seriousness of the situation. Referring to subsequent events, he told us: 'During the occurrence I noticed European sergeants smiling and very glad.'"

Then the report goes on to say:

"According to shop-keeper Umesh Chandra Pal's evidence, a Sahib (European) was telling the looters: 'Take away quickly; there is not very much time.' Even when the police were shown people openly carrying away stolen goods, they refused to assist in their recovery. On the contrary, there is evidence that the police helped them to escape."

Sir, even the ladies were not spared by these police hooligans. The report goes on to say:

"The most pitiful evidence came from the daughter of Sreejut Bipin Bahari Sen, whose house had been raided also about mid-night. After the first search of the house, the police took away her two brothers. Three Gurkhas returned again, forced her father to open the door and entered the house on the pretence of a further search. While one or more of the Gurkhas prevented the father from coming to her aid, other Gurkhas attacked her and subjected her to a brutal and cowardly assault. (I want to know whether this is a casualty or not!) When she attempted to cry out, they gagged her. Her father too was struck, when he made a desperate attempt to protect her; when he was overpowered and his nose began to bleed, the Gurkhas renewed their assault on her."

The Honourable Mr. H. G. Haig: What is the authority for this?

Pandit Satyendra Nath Sen: This is the report of a non-official and impartial body.

The Honourable Mr. H. G. Haig: Has any complaint been made in Court?

Pandit Satyendra Nath Sen: It has not yet been contradicted by anybody, I believe.

The Honourable Mr. H. G. Haig: It has not yet been put before a Court.

Pandit Satyendra Nath Sen: Sir, I will not quote any more passages from this report. I would only like to remind the Honourable the Home Member that terrorism begets terrorism. This may not be very pleasing to the ears of the Government, but if experience has got any value, they should accept the view that terrorism is not the proper remedy for stamping out terrorism. If this was the conduct of Government, no wonder some misguided youths would go wrong, and it is their own mistakes that make the matters worse. Sir, they want to legalise those acts of violence by the passing of these lawless laws.

And what do they do next? They have gagged the Press which is practically the mouth of the public and the disastrous consequence comes as a matter of course. If the mouth is gagged, the excitement must find its expression in other ways. When the heart is full with feeling, it must be allowed to be emptied, otherwise the whole system will be deranged. Chittagong is regarded by the Government as the hotbed of terrorism. Even without this Act, it was possible for Government to carry on a vendetta on the entire Hindu population; and, by way of adding insult to injury, they have imposed a collective punitive-tax of Rs. 80,000 on the Hindu population.

I would tell my Muhammadan friends that this terrorism on the part of Government has a tendency to spread to Muhammadans also. It was only the other day that my Honourable friend, Mr. Abdul Matin Chaudhury, read out a telegram from Chittagong and my friend, Mr. Mitra, also read out the same telegram from Chittagong which says that highhandedness was committed on some Muhammadan families. I should, therefore, request my Muhammadan friends also to combine with the Hindus to see that no terrorism is perpetrated by Government as it is also our duty to see that no terrorism is perpetrated by the people. The next objective of the Government is Midnapore; and what form of terrorism is not being perpetrated there in the name of law? One Phanindra Nath Das was beaten almost to death; the belongings of poor villagers are being snatched away, and even the chastity of females is being violated in a most brutal and vindictive manner. When these things were being narrated the other day by my friend, Mr. Mitra, one of the Nominated Members, Captain Lal Chand, interjected by saying "Is a no-rent campaign going on there?" The Honourable Member evidently wanted to suggest that rent or tax can and should be collected even by violating female modesty.

The Honourable Mr. H. G. Haig: May I ask, Sir, whether a discussion of the civil disobedience campaign in Midnapore is relevant to a Bill dealing with the suppression of terrorist crime?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member is in order for the reason that he is illustrating what the result of these powers will be in regard to the areas where terrorism prevails. (Opposition Cheers.)

Pandit Satyendra Nath Sen: I am thankful to the Chair. That is exactly my point.

Mr. Arthur Moore (Bengal: European): May I ask whether the Honourable Member is in order in bringing a charge against an Honourable Member who is not in his seat

An Honourable Member: He should be in his seat.

Mr. Arthur Moore: the charge being that he said that a no-rent campaign should be dealt with by outrages against females, and that that is the proper method of dealing with it? I am quite sure that if my Honourable friend, who is not in his seat now, were here, he would repudiate the suggestion that he ever made such a statement.

An Honourable Member: Are you holding a power of attorney for him?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member should remember, as the Chair has repeatedly pointed out, that when an Honourable Member accepts a seat in this House, it is his duty to be present here when important discussions are going on. (Opposition Cheers.) The Honourable Member, not being present here, will be able to publish a contradiction to it in the Press if he wishes to do so. There appears to be no point of order involved, unless the Honourable Member wishes to explain further what the point of order is.

Mr. Arthur Moore: May I point out that the implication or gloss that bring such a monstrous suggestion against any Member of this House.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member is not bringing any charge against that Member, as far as the Chair has followed him. The Honourable Member says that certain statements were made by another Honourable Member on a previous occasion on the floor of this House in the course of discussion, and he puts his own interpretation on the implications of that speech. (Opposition Cheers.)

Mr. Arthur Moore: May I point out that the implication or gloss that he has put on the Honourable Member's statement is to make an outrageous charge against that Honourable Member?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): But how is that a point of order?

Mr. Arthur Moore: I should have thought that it was out of order to bring such a charge against any Member of this House.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member has not, as far as the Chair has followed him, brought any charge; he has merely stated that this was the implication of what the Honourable Member had said.

Sir Abdulla-al-Mámtín Suhrawardý (Burdwan and Presidency Divisions: Muhammadan Rural): That amounts to a charge.

An Honourable Member: No, no.

Mr. Arthur Moore: May I point out that the Honourable Member has said that the meaning of my Honourable friend, Captain Lal Chand's interruption was that he believed that the proper way to deal with a no-rent agitation was by outraging the modesty of females?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): No; as far as the Chair has followed him, the Honourable Member never said anything of the kind.

Mr. Arthur Moore: May I ask the Honourable Member to make that clear?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): If he wishes to do so, the Chair will raise no objection.

Sir Abdulla-el-Masri Sahrawady: On a point of information, Sir. Will the Honourable Member, who is absent and against whom this insinuation is made, be permitted by the Chair to make a personal explanation when he happens to be here?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member ought to be aware that the Chair has never refused any Honourable Member, who wishes to make a personal explanation, an opportunity to do so.

Sir Abdulla-el-Masri Sahrawady: At a later stage, I mean, will he be permitted?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Chair will consider when the Honourable Member himself attends the House and offers to make a personal explanation.

Pandit Satyendra Nath Sen: It is superfluous to make any further remarks on the matter and I leave it at that. The Government are now pursuing a general policy of beating everywhere. By quoting the figures of the civil disobedience prisoners, they now want to prove that the civil disobedience movement is on the wane; but is that the real situation? The real situation is as was given out by Mr. Leonard Matters the other day in London while speaking at a conference on India, namely, that the number of civil disobedience prisoners has decreased because the present policy which is being followed in India is "Do not arrest, but beat". This is particularly true of Bengal. I might remind Honourable Members that one Ajit Bhattacharya, who was beaten to death last year, was an innocent boy who was at the time seeking his admission into the College. Not even a sigh was spent over it by Government. Some months ago, one Anil Kumar Das also died at Dacca under mysterious circumstances. I think, if the Government will not revise their policy of terrorism, if they do not mend their manners, there will be no real improvement in the situation. As I have already said, Government are prejudiced against

Bengal, and, therefore, it will not be safe to entrust the people to the sole charge and disposal of a Special Magistrate who is subservient to Government. The Special Magistrate knows the policy of the Government very well, namely, "no conviction, no promotion", and if a Magistrate has the courage of his conviction, if he wants to act according to his own conscience, he will be harassed and perhaps even his promotion will be stopped. We would not have indeed insisted on having very many appeals if the executive and judiciary were separated, but that is a condition which is not yet within sight. Therefore, we should see that justice is done to the accused persons.

This Bill is open to another very serious objection. In the original Bengal Act, there are half a dozen provisos. Suppose any one of them is violated. Who is there to revise the proceedings? Of course, the High

Court is there, but is it possible for a poor villager to move the High Court at every step? I have already made it clear, and I repeat that if these objectionable clauses, namely, clauses 4 and 5, be deleted, I will not press for circulation, but as Government do not seem to be in a mood to delete those portions, I will move my motion for circulation, but before I resume my seat, I would ask one thing on a point of information. Is there any precedent for circulating a Bill together with any of the amendments, and is the Secretary or anybody else in this House empowered to do so by any rule to that effect?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Amendment moved:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st January, 1933."

Mr. A. Das (Benares and Gorakhpur Divisions: Non-Muhammadan Rural): Sir, when I gave my amendment on this Bill, we did not know that any alternative proposals would be put by the Honourable the Law Member. As I read the Bill at that time, I thought, . . .

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Does the Honourable Member wish to move his amendment?

Mr. A. Das: I withdraw certain . . .

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member will get a chance to speak on the whole question, if he wishes to do so. At present the Chair desires to know whether the Honourable Member wishes to move the amendment that stands in his name?

Mr. A. Das: No, Sir, I do not wish to move my amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The original motion and the two amendments, one moved by Mr. Mitra and the other moved by Mr. Sen, are now before the House.

Mr. S. C. Sen: As I said before, I consider that these amendments for circulation will be of no use. If they are circulated in different parts of the country, even then I do not know if that will be of much assistance, because what have we got here? Only four provisions, two of which must be admitted, and the other two may be controverted. The original Bengal Act is not before us, and, therefore, no opinion can be had on the provisions of the Act. Under these circumstances, when we are going to have two provisions which are really in favour of the accused, namely, their right to appeal to the High Court, I do not see that any object will be gained by the motion for circulation. As I said before, we do not deny the existence of a movement in this country which the Government call as the terrorist movement, although I know that the word "terrorist" has not been defined anywhere except by the Bengal Government in certain rules which they framed under the powers conferred upon them by the Ordinance itself. We also agree that the terrorist movement is a menace to the country and should be extirpated or suppressed, and we also agree that the Government should have such powers to deal with the movement as it considers necessary, expedient and proper, but at the same time we also want to see that the powers which the Government get and which they have got so long for the last 27 years should be exercised properly.

prejudicial to the public safety or the defence of India, the Local Government may, by order in writing, direct that such person—

- (a) shall not enter, reside or remain in any area specified in the order;
- (b) shall reside or remain in any area in British India so specified;
- (c) shall conduct himself in such manner or abstain from such acts or take such order with any property in his possession or under his control as may be specified in such order."

There is no direction that he can be restrained and kept in jail for an indefinite period. Rule 12A of the rules under which the Rowlett Commissioners said that these persons were dealt with provides thus:

"Any officer of Government, authorised in this behalf by a general or special order of the Local Government, may arrest without warrant any person against whom a reasonable suspicion exists that he has acted, is acting, or is about to act with intent to assist the King's enemies in a manner prejudicial to the public safety or the defence of British India,".....

Then certain consequences will follow.

Were these persons, who were arrested under these rules, concerned with any activities to assist the King's enemies? However, Sir, that is a long story. 1,029 persons were arrested between June 1916 and June 1918.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order. The Chair would like to know the object with which the Honourable Member is tracing the whole history of the terrorist movement in Bengal. The Honourable Member is perfectly in order, but the Chair wishes to know what is the object of the Honourable Member in reciting the whole history of the terrorist movement, tracing it from its inception up to this day? Is it the Honourable Member's intention to urge that no matter, what Bills are passed by the Legislature, the terrorist movement will remain, or is it his intention to point out that instead of passing such Bills there are other ways and means by which the terrorist movement could be controlled? If that is the Honourable Member's position, would it not be better, instead of reading out in great detail all that has happened in the past, to come to that point and say in general terms that various measures taken in the past have proved of no avail, and that he has some constructive suggestions to put forward before this House in lieu of the passage of this Bill?

Mr. S. O. Sen: My object is to show that from stage to stage the Government took more and more drastic powers, but that the movement is still where it was in 1906.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Quite so. I have followed the Honourable Member's speech. He need not go into such great detail, but can argue it in the general way.

Mr. S. O. Sen: Because it was necessary in this case to show that what the Government did in 1916 was absolutely *ultra vires* and illegal, that they did not always administer the provisions of the law in a proper or legitimate way. Then, Sir, came the Rowlett Bill. The Rowlett Committee made certain recommendations and the Act was passed. If we compare the provisions of that Act with those of the present legislation, the House will see in what respect the present legislation goes much further, is more drastic, and more brutal, than even what the Rowlett

Mr. S. O. Sen: Sir, the terrorist movement is not new to us. It made its appearance for the first time in Bengal in the year 1906, shortly after what is known as the Partition of Bengal. It was understood then that the Partition of Bengal, although ostensibly made for the purpose of administrative convenience, was really brought about for the purpose of curbing the political power of the Bengal Hindus, for the purpose of suppressing their political activities and also for the purpose of . . .

An Honourable Member: Are we discussing the Partition of Bengal?

Mr. S. O. Sen: Yes, we are, and also for the purpose of creating differences between the Hindus and Muslims of Bengal. The Rowlett Committee held that in Bengal it was frequently asserted and sometimes believed that Government were setting the Muhammadans against the Hindus, and this belief was, to a certain extent, confirmed in the minds of the Hindu population by the attitude which the then Lieut.-Governor of the new Province took by his theory of "my favourite wife". Those who are acquainted with the disturbances during the Partition of Bengal knew what that expression meant, and people knew how and why the activities of the terrorist movement came into existence. It was felt that there was not the same impartial judgment and the same impartial justice administered to the different communities in Bengal as was expected under Her Majesty Queen Victoria's Proclamation. Let us see what steps Government have taken during all these 25 years for suppressing this terrorist movement.

In 1906, as I said, the terrorist movement or rather the terrorists first appeared. It was dealt with under Regulation III of 1918. That was not the first time that I came to know of the existence of such a Regulation, because, if I remember rightly, that Regulation was used by Lord Dufferin when Prince Dalip Singh wanted to come out to India and he was arrested at Aden under that Regulation. That was the first time we heard of the existence of such a Regulation, and, subsequently, about 30 years later, we came to know of its existence. In 1908, however, the Government enacted three Acts for the purpose of suppressing this movement,—the Explosive Substances Act, the Newspaper Incitement to Violence Act, and the Criminal Law Amendment Act which is still in existence with the exception of one Chapter. In 1910, they enacted the Indian Press Act, which is still serving as a precedent for the recent Press laws of the country as amended the other day by the Ordinance Bill. In 1911, the Seditious Meetings Act was also passed for the purpose of suppressing this identical movement, but the movement did not die. Then it continued to be dealt with under these Acts in conjunction with Regulation III of 1918. Then the Great War came, and, along with it, the Defence of India Act was passed and certain rules were framed thereunder. The rules were applied for the purpose of suppressing this movement, but how that was done is beyond my comprehension, because, as I read the Defence of India Act, it related to foreigners and others and also to matters connected with the Military. For the information of this House, I will read rule 3, which says:

"Where, in the opinion of the Local Government, there are reasonable grounds for believing that any person has acted, is acting, or is about to act in a manner

[Mr. S. C. Sen:] Committee had recommended. I do not wish to enter into the details of these matters, but I say, after the Rowlatt Act was passed, as there were no outrages, in 1920-21 all these repressive legislations were annulled. In 1924, there was an Ordinance in which certain provisions of the Rowlatt Act were accepted, but the judicial character of the provisions contained in the Rowlatt Act were given the go by.

Mr. K. Ahmed: You are supporting the amendment.

Mr. S. C. Sen: In 1925, the Bengal Criminal Law Amendment Act was passed, not by the Legislative Council which rejected the Bill, but it was certified by the Viceroy, and no explanation was given as to why there was a departure from the Rowlatt Act. Under that Act, 187 persons were arrested. In 1930, that Act expired, it was not extended, but one portion of it was re-enacted. Immediately after that, in fifteen days, an Ordinance was passed embodying the provisions of that Act, and, subsequently, the Act of 1930 was passed. This Act also contained provisions similar to those in the Act of 1925, and about 991 persons were arrested under that Act. As regards the provisions of that Act, the Government of Bengal, in their Police Administration Report for the year 1931, say this:

"From April, 1930, up to the end of the year, 991 persons were arrested under the Ordinance and the Bengal Criminal Law Amendment Act, of whom 813 were interned and 173 released.

The year 1931 was one of continuous anxiety. The terrorists had extended their organisations enormously among the Hindu bhadralok youths who had been so inflamed by the press and platform campaign waged by the Congress against Government and the British, and encouraged to break laws by the civil disobedience movement and, excited by the terrorist outrages of 1930, that it became increasingly difficult to check terrorism with the special powers conferred by the Bengal Criminal Law Amendment Act, 1930."

My object in saying all this was that, from time to time further drastic powers were asked for by Government and were given to Government. The Government not being satisfied with the provisions of the Act of 1930, an Ordinance was passed in 1931 extending the operation of that Act and, subsequently, in 1932, another Act was passed which extended the operation of the Criminal Law Amendment Act which was passed in 1930. That was also not considered sufficient. The Bengal Government, in their report, say: (I am reading it because the Bengal Government have recommended that it should be read):

"The Governor in Council has read with great interest and strongly recommends for perusal by the public the informative survey of the history of terrorist crime in Bengal since 1907, which is set out in Part VII of Mr. Farmer's report. During 1931 terrorist crimes and activities were a source of continuous anxiety and no less than 67 outrages were committed together with 9 murders including those of Messrs. Peddie, Garlick and Stevens of the I. C. S. and Khan Bahadur Ahsanullah, Inspector of Police. The seriousness of the position led to the promulgation in October of Bengal Ordinance IX of 1931, which extended the scope of the Bengal Criminal Law Amendment Act, 1930, so as to permit of action being taken against members and helpers of terrorists' associations. To deal with the situation in Chittagong, where a considerable and very active body of absconders of the Raid Case remained at large, Ordinance XI of 1931 was promulgated on 1st December which gave wider powers to the executive and also provided for more speedy trials of cases connected with the revolutionary conspiracy. To implement the Ordinance, a body of regular troops and increased police forces were drafted into the district."

Sir, not only was this done, but even the Government are doubtful of the efficacy of these methods. On page 28 of the report, the Government say:

"The continuance of outrages proved that the powers conferred by the Bengal Criminal Law Amendment Act, 1930, were insufficient. On the 29th October, the Bengal Ordinance IX of 1931 was promulgated by which the scope of the Act was widened, so that action could also be taken against all members and helpers of terrorist associations, thus conferring powers similar to those which were used with success against the terrorists in 1916. Whether these powers will have the effect of stamping out terrorism, at least temporarily, has yet to be seen."

Over and above this, the Bengal Government under the rule making powers made certain rules and, as has been pointed out by one of the previous speakers, they have inflicted a mass fine on the inhabitants of Chittagong for the terrorist outrages. I will now give the House a copy of the Notification issued by the Government of Bengal.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Chair would like to know how long the Honourable Member is likely to take?

Mr. S. C. Sen: About 15 or 20 minutes.

Mr. President: I will wait till the Honourable Member concludes.

Mr. S. C. Sen: One of the rules runs as follows:

"The District Magistrate, if, in his opinion, it is necessary for the purpose of preventing communication with absconders or attacks on the persons or property of His Majesty's subjects or securing the safety of His Majesty's forces or police, may, by an order in writing, direct the inhabitants, any class or section of the inhabitants, of any area specified in the order, to remain for a specified period not exceeding one month within the houses or homesteads in which they normally reside."

A more monstrous rule I have not ever come across. Imagine a provision which directs the inhabitants or any section of the inhabitants to remain in their houses and not to go out of their houses for a period of one month. We do not think we have heard of such extraordinary orders as are now sought to be enforced. They are not to go out of their houses even for marketing or for obtaining food supply. They are, as it were, kept in jail in their own houses. Now, I shall give the Notification regarding the infliction of fine. It says:

"Whereas the events of the last two years referred to below, the judicial decisions of criminal courts and information in the possession of Government show that the outrage at the Assam-Bengal Railway Institute at Pahartali, near Chittagong, on the night of the 24th September, 1932, was committed by members of a terrorist organisation, styling itself the 'Indian Republican Army, Chittagong Branch,' and that this organisation is recruited from the Hindu bhadralok community of Chittagong town and district and is responsible for the raid on the Armoury at Chittagong, the murder of Inspector Tarini Mukherjee at Chandpur, the murder of Khan Bahadur Ahsanullah at Chittagong and the murder of Captain Cameron at Dhalghat; and whereas it can be confidently inferred from the known facts that the preliminary arrangements for the attack on the Railway Institute could not have been made and the plan itself executed without the knowledge of a great many people ordinarily resident in the locality;

And whereas it appears further that without the connivance of the local inhabitants it would not have been possible for as many as 12 persons to assemble and carry out the raid without detection, or to escape; and that many inhabitants of Chittagong town and neighbourhood should be able to throw light on the occurrence and its perpetrators but have so far failed to communicate their knowledge or their suspicions to the authorities, in response to the communiqué issued by the Government of Bengal on the 29th September, 1932;

[Mr. S. O. Sen:]

Now, therefore, as there are good grounds for the belief that persons concerned in the commission of the above offences and other acts prejudicial to the public security and to the maintenance of law and order are being harboured and assisted by the Hindu inhabitants of Chittagong town and neighbourhood, the Governor in Council, in exercise of the powers conferred upon him by sub-section (1) of section 27 of the Special Powers Ordinance, 1932 (X of 1932), hereby impose, a collective fine of Rs. 80,000 on (1) the inhabitants of Chittagong who are owners or occupiers of holdings within the area of the Chittagong municipality which are assessed to municipal taxes and (2) the inhabitants of Pahartali railway colony, and the villages of Patya, Anwara, Kanungopara, Sarotali, Sakpara, Kattali and Gomdandi, subject to any order which may be passed exempting any person or class or section of such inhabitants from the liability to pay any portion of the fine.

2. It is further notified that in order to allow those inhabitants of the areas concerned who have recently formed watch and ward committees for the purpose of assisting the authorities in obtaining information about the movements of terrorists an opportunity of proving their good intentions, realisation of the fine will be postponed until December 1st, 1932. If in the interval information is forthcoming leading to the arrest of all or some of the perpetrators of the outrage of September 24th last, the local Government will, on receiving the recommendations of the local officers, make such adjustment in the amount of the fine and such further exemptions in any area or in the case of any individual as the circumstances may justify."

What logic is this? A more ridiculous argument cannot be conceived. My friend, the Honourable Mr. Bajpai, is not here. If he were here, I would have given it to him to keep it in the Delhi University as a piece of logic to be used as a specimen by the students of logic. Let us take one passage from the Notification:

"And whereas it appears further that without the connivance of the local inhabitants it would not have been possible for as many as 12 persons to assemble and carry out the raid without detection or to escape . . ."

What logic or what convincing argument, Sir, I cannot understand. It was a Navami day, a dark night. It says 12 persons came and, therefore, the whole community must be supposed to have been awake. The whole place is occupied by the lower classes of mistries in the workshops. Let us take another clause out of the Notification:

"and that many inhabitants of Chittagong town and neighbourhood should be able to throw light on the occurrence and its perpetrators, but have so far failed to communicate their knowledge or their suspicions to the authorities, in response to the communiqué issued by the Government of Bengal on the 28th September, 1932."

The occurrences took place at 9 o'clock in the night and it was a dark night. But the conclusion is come to that many inhabitants of Chittagong should be able to throw light on the occurrence and their perpetrators. The logic here is invincible and I am sorry that a Government order should contain such absurdities. It does not stop here, but goes on to state that there are good grounds for the belief that the persons concerned in the commission of the above offences and other acts prejudicial to the public security and to the maintenance of law and order are being harboured and assisted by the Hindu inhabitants of Chittagong and the neighbourhood. The "good grounds" are contained in the recitals mentioned in the Notification and I leave the House to judge whether any sane person, upon the facts stated, could come to the conclusion which the Government of Bengal did and upon such conclusion to inflict a mass or collective fine of Rs. 80,000 upon the Hindu inhabitants of Chittagong. Sir, under what logic or what sane argument such a deduction can be made, I do not know. Probably my Honourable friend, the Home Member, who is probably aware of this Notification as it appeared in the Gazette

of the 27th October and he came back from Calcutta on the 23rd October, might have had a hand in this matter. However, the fact remains that the entire Hindu inhabitants of Chittagong and its neighbourhood are to be fined, because 12 persons came there, committed the raid, and could not be detected. Therefore, the Hindu inhabitants of that town must be conniving at their actions and must be harbouring them! Sir, it should be remembered that in Chittagong 18 persons per hundred are Hindus and 82 persons per hundred are Moslems, and I am informed that specially in this part of the town, which is occupied by Europeans, Anglo-Indians and other Railway employees, probably the whole lower class population is Moslem or Sikhs.

Sir, I have shown to what length the Government have gone for the purpose of suppressing this movement. They have substituted terrorism of the worst kind for another kind of terrorism, and I say it is of the worst kind, because it is being perpetrated by Government in the name of law and order and especially at this time when the people are suffering from acute distress on account of the economic depression all round. Sir, I have shown up to now that from time to time repressive measures, and, what I would call progressively repressive measures, have been added to the Statute-book for the purpose of stamping out this terrorism, which, I may say, everybody wants that it should be stamped out, but with no success. Sir, the net result of this progressive repression in Bengal has converted the abnormal into the normal. An attempt has been throughout made by Government from 1906 upwards to oust the judiciary. Sir, in enacting these enactments, the Government have substantially introduced martial law, which is the negation of all law, but why should they not do so in a straightforward manner? Instead of coming before the Legislature for further powers, it would have been more honest for them to declare martial law in the province of Bengal or the district of Chittagong. That would have been more honest and more straightforward course, and not only that,—the merit of that straightforward course is that the confidence of the people in the administration of justice would have been unaffected, whereas, by ousting the jurisdiction of the judiciary, you have made your position in this country, so far as the administration of justice is concerned, a precarious one. Sir, Government do not realise that the confidence of the people in British justice is the greatest asset—much more valuable than the sword and the bayonet.

I was reading the other day an old Volume of the *Friend of India* with which my friend, the Honourable Mr. Moore's paper is associated. In that Volume, I find that the missionaries of Serampore, who were then conducting that paper, were considering the reason why British rule in this country had been made permanent, so that, even at that time they were considering whether it was the hand of Providence or otherwise. They dismissed the case for the hand of Providence, but they said that it was the just laws and the just administration of the laws that made the foundations of British rule in this country permanent. Such were also the words of Lord Minto even in 1908, when, in connection with the Bill to prevent incitement to violence, he repeated the same thing and he said that the British Raj in this country was built upon the foundation of just laws and he hoped that that would continue to be so. Sir, I appeal to the Honourable the Home Member to consider for himself whether the laws that are now being pressed by him in this Legislative Assembly or even in the Legislative Council of Bengal can be termed as just laws. Sir, the Executive have practically ousted the jurisdiction of the High Court and the

[Mr. S. C. Sen:]

truth blurted out of the mouth of the Honourable the Home Member. When introducing this Bill, the Home Member stated this:

"We propose that just as the Bengal Act has removed the jurisdiction of the lower Courts, so we should remove the jurisdiction in this matter of the High Court."

Then he goes on:

"The object of establishing these Courts of Special Magistrates is to provide a speedy form of trial for terrorist offences. If the accused are able at every stage of the proceedings to make applications in revision to the High Court," etc,

then, Sir, the following words which spontaneously came out are very very important and show what degree, if I may say so, of respect or contempt he has for the High Court:

"applications which, I have no doubt, would eventually not be entertained, but which would still serve their purpose of delaying"

the proceedings.

Now I have not heard of such an expression of opinion by even the worst enemies of the British Raj. Here the Honourable Member takes it for granted that the High Court of Bengal has been reduced to such a condition, has had such a fall at the present moment, that the Honourable the Home Member, as representing the Executive Government, can confidently assert that these petitions by the accused will not be entertained by the High Court.

The Honourable Mr. H. G. Haig: Sir, on a point of personal explanation, may I make it clear that my argument was that these would be frivolous applications, put in for the purpose of delaying the proceedings, and naturally, if they were frivolous applications, eventually they would be rejected by the High Court. That was my argument.

Mr. S. C. Sen: Sir, if I had repeated these words in public, I would at once be convicted by the High Court of contempt of Court. This belated explanation of the Honourable the Home Member cannot convince any body. Then there is another argument that, as these provisions are to be administered by Special Magistrates, who are also judicial officers in a sense, therefore the argument, which we have advanced, namely, that there is a departure from the judicial element in executive action, does not apply. But who are these Magistrates? They are either the District Magistrate, who is the executive head of the district or other Subordinate Magistrates who are under the District Magistrate. It is notorious,—however much it may be denied in this House—that these Magistrates deal with cases as the Superintendent of Police of the District want them to do, and I can say for the edification of my friends that just before I left Calcutta I heard from a very reliable source that the Deputy Commissioner of Police, Northern Division, called upon one of the Presidency Magistrates, Calcutta, to explain his conduct as to why he had acquitted certain persons. That is how the law is administered even in the Presidency Town of Calcutta, not to speak of the mufassil towns.

Sir Abdulla-al-Māmūn Suhrawardy: What is the name of the Deputy Commissioner?

The Honourable Sir Brojendra Mitter (Law Member): Who is the Presidency Magistrate?

Mr. S. C. Sen: I am not prepared to give his name. I may tell you this that the Presidency Magistrate is a Muslim. That much information I can give to my friend, Sir Abdulla Suhrawardy.

Sir Abdulla-al-Māmūn Suhrawardy: Will you kindly tell me if the Deputy Commissioner is not a Hindu?

Mr. S. C. Sen: He is a European gentleman. In the northern part, there is no Hindu gentleman who is holding the position of the Deputy Commissioner of Police.

Mr. G. S. Dutt (Bengal: Nominated Official): Should the Honourable Member be allowed to cast unfounded aspersions on the character of a whole body of public servants such as the First Class Magistrates in Bengal by describing them all as mere creatures of the District Magistrates?

Mr. S. C. Sen: The other day, the Law Member said in this House that the rule of law was one of the fundamental principles of British administration. What are the Government doing now? They are substituting the rule of the police for the rule of law. Even from the time of Sir Henry Adamson, attempts were being made or it was considered necessary to separate the Executive from the Judicial and in Bengal particularly a committee under Justice Greaves was appointed to consider this question. That was about 15 years ago. That Committee made a unanimous recommendation that the Judiciary and the Executive should be separated, but, Sir, nothing has so far been done. The cry that there is no money is still there, although we find that only the other day over two lakhs of rupees was sanctioned by the Bengal Government for the police force in Chittagong, who have shown themselves inefficient and unreliable, because they could not detect 12 persons in Chittagong for whom they have been engaged for the last two years.

If they had separated the Judicial from the Executive, most of our opposition to these reactionary enactments would not have been called for. I would ask the Honourable the Home Member to ascertain whether the service men other than the police are not equally discontented or they are not more discontented than the agitators regarding the action taken by the Government in connection with these repressive laws. Sir, as I said before, it now looks as if martial law has been proclaimed in Bengal without the straightforwardness of Government in declaring such laws. I for one would thousand times prefer that Sir Philip Chetwode's officers should govern and administer the laws in Bengal rather than the officers of Mr. Prentice, for I know the army officers are gentlemen.

The Honourable Mr. H. G. Haig: What does the Honourable Member mean? Is this a reflection on the whole of the Civil Service and the police? Is the Honourable Member asserting that the members of the Civil Service and the police are not gentlemen?

Mr. S. C. Sen: I have said nothing, Sir, about the Civil Service. I have said the officers under Mr. Prentice . . .

The Honourable Mr. H. G. Haig: They are District Magistrates and Commissioners.

Mr. S. C. Sen: District Magistrates are covenanted officers and appointed by the King and they hold appointments under covenants. (Several Honourable Members: "But they are under the Honourable

[Mr. S. C. Sen.] Member.") They are not. Sir, the other day my friend, the Honourable the Home Member, in introducing the Bill, made the following observations:

"In order to extirpate it, effort is required from many directions. There is a whole chain of executive and judicial processes, of which the provisions of this Bill represent a small, though essential, link. Effort, I admit, is also required in other directions,—to stop recruitment of terrorists, by improving public opinion and by endeavouring to cure some of the conditions—economic and educational,—which have fostered the growth of the movement."

I admit, Sir, that these efforts should be made in this direction. But how are they to be made? How is it possible under the present circumstances for the public to come forward and make efforts like these? Sir, we know of the several instances which have been cited here which go to show that every attempt has been made by Government which goes to lead astray public opinion, which makes public opinion impossible to be ranked on the side of Government and by these actions Government are practically throwing into the arms of the terrorists the people who have hitherto supported the Government measures. The fine on the whole Hindu inhabitants of Chittagong is an example to that effect. It cannot be said that all these persons, the whole Hindu inhabitants, are guilty; most of them are innocent persons and yet they have to pay this heavy fine. Now, what would their feelings be towards the Government? Will the feeling be one of sympathy towards the British Government for taking money from them or will it be otherwise? Another result of it would be that some of the younger generations would certainly associate themselves with the ranks of the terrorists rather than be subject to the most terrible repressive laws enacted by Government. Sir, my friend, Pandit Sen, referred to the Chittagong raid and I understand the Honourable the Home Member asked him what authority he had for the various incidents which Pandit Sen narrated here. I ask the Honourable the Home Member whether he is in a position to deny all these charges? Had not the Government appointed Mr. Nelson, the Commissioner of the Division, to inquire into this matter, and whether Mr. Nelson has not submitted a report? Did the Government have the courage to publish that report? No, Sir, for the simple reason that if that report was published, it would have shown that all the allegations made by the Pandit had been thoroughly and absolutely supported. I challenge the Honourable the Home Member to produce that report in this House and to show from that report that the statements made by Pandit Sen were wrong. It is also said by Government that this raid of the Hindu houses at Chittagong was committed by the Mussalmans of that part of the country. I deny that entirely. That the Government have made that charge is clear from the administration report which I was reading and for the edification of my Muslim friends

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Chair asked the Honourable Member how much time he was likely to take and he said fifteen or twenty minutes: he has taken twenty-five minutes already and still the Honourable Member's trend of speech shows that he will be considerably longer. The Chair does not wish to ask him to curtail his remarks but if he had given a correct idea of the length of time he was going to take the Chair would have been able to regulate adjournment for lunch.

Mr. S. C. Sen: I am very sorry, Sir, but . . .

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Are you going to be very long?

Mr. S. C. Sen: Yes, Sir. I shall be a little long.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Before adjourning the House for Lunch, I should like to inform Honourable Members that they are aware that the Honourable the Leader of the House intimated that he would request the Chair to suspend the Standing Orders and take up the consideration of the Ottawa Select Committee's Report earlier than the interval required by the Standing Orders. The Chair has given the matter its best consideration and has decided to exercise the powers vesting in it under Standing Order 44, to suspend the Standing Orders and to call upon the Honourable the Commerce Member to move his motion on the Select Committee's report as soon as the consideration of the present Bill is concluded. As soon as the consideration of this Bill is concluded, the next motion before the House will be the consideration of the Select Committee's report on the Ottawa Tariff Bill. The Chair wishes to make it clear for the information of Honourable Members, that under the Standing Orders two clear days' notice is required for any amendments which any Honourable Member may wish to move. The Chair will dispense with the two days' notice and will allow Honourable Members to give notice even up to the time when the motion for consideration of the Select Committee's Report is before the House.

The Assembly then adjourned for Lunch till Three of the Clock.

The Assembly re-assembled after Lunch at Three of the Clock, Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

Mr. S. C. Sen: Sir, I was referring to the Chittagong raids and I was referring to the reports made by the Government of Bengal in their Annual Reports. For the edification of my Muslim friends, I refer to page 31 of the Report on the Police Administration in the Bengal Presidency. I need not read the whole paragraph, but I will read only such portions as I consider necessary:

"This attack on an officer who had been in the district for many years and was well-known and respected roused deep indignation among the Muhammadans not only in Chittagong, but throughout East Bengal, and was immediately followed by an attack on Hindu property in Chittagong which was soon quelled however by the authorities."

The whole thing is a tissue of lies. I know it for a fact, and I have it on very reliable authority that the raid on Chittagong was engineered by the authorities there including the District Magistrate himself, and all the riff raffs of Chittagong were called in for the purpose of helping in the raid. The Muhammadan community as a whole, the respectable portion of it, did not join in it . . .

Khan Bahadur Abul Hasnat Muhammad Abdul Hye (Bengal: Nominated Official): Which raid do you refer to? Is it the Chittagong Armoury raid, or any other raid?

Mr. S. O. Sen: . . . and the Government had not the courage to say explicitly who the raiders were, but they left it to be inferred that the Muslim population of Chittagong were the culprits. The Honourable the Home Member, with reference to some of the incidents referred to by Pandit Satyendra Nath Sen, inquired whether proceedings had not been taken. He forgets, Sir, that in most of the cases when people who suffered applied for sanction to prosecute the officers concerned, such sanction was invariably refused. I can tell for the information of the Honourable the Home Member that when the police entered one of the schools, they did not spare even boys of ten years of age. The guardians of the boys and the teachers who were assaulted most mercilessly applied for sanction to prosecute, but sanction was refused

Mr. F. E. James (Madras: European): Which school was that?

Mr. S. O. Sen: You can get it from the Report. There was a raid on a school.

The Honourable Mr. H. G. Haig: My inquiry related to an incident described by Pandit Sen in which it was alleged that a woman had been violated. Does my friend suggest that sanction for prosecution was refused?

Mr. S. O. Sen: No, Sir; I do not know of that incident, but I know of several instances where sanction was refused, and the case I mention is one of those instances. I may also mention that moveable properties which were looted were found in the houses of various persons. People, whose moveable properties were looted, went to the District Magistrate and asked for search warrants, and that was refused. I need not remind my friend that in the Dacca case a student, Ajit Bhattacharjee, was killed at the hands of the police, and his uncle applied for sanction to prosecute. The Magistrate wrote about half a dozen foolscap sheets and said that no sanction could be granted. The reasons for such a decision were more than I could say. In the Presidency College raid, I think the Home Member will remember, the son of a highly respectable person, a Judge of the High Court, was brutally assaulted, and I can say that His Excellency Sir Stanley Jackson himself assured that gentleman that full justice would be done in the matter. What was done, may I know? I happen to know something about that case, because my firm was consulted in the matter. These are some of the instances, I do not wish to multiply them here or to take the time of the House. These instances show that Government, for the sake of false prestige, are denying justice to the oppressed people alienating public opinion and public sympathy. ("Hear, hear" from the Nationalist Benches.) That is my grievance. I am not against the Government in any step which they think fit to take to suppress terrorism, but I say that these incidents show that Government look more to the prestige of the police force than to justice. Now, for the last 27 years, we have got this one method of dealing with the terrorist movement. Is it not time to cry halt and to take stock of the whole situation and see how far this terrorist movement has been suppressed by these methods? Is it not time for the Government to appoint a Committee, as they did on the last occasion, when Justice Rowlatt was brought out and to find out the causes which

are spreading the movement beyond control, instead of sticking to their only stick, namely, drastic legislation and repression? The Government should remember that terrorism is an act of despair. People, who go about, with a deadly poison in one hand and a pistol in the other, and face immediate death, naturally resort to such a thing out of sheer desperation, because they feel that there is no remedy for the treatment meted out to their country, to them, or their kinsmen or to their families or to the general Hindu public at large. Why is this desperation? Why can't a remedy be found? If any remedy can be found for the removal of this desperation, I am sure that terrorism will go out of this country. Nobody would voluntarily court death; everybody loves his own life more than anything else. I appeal to Government to consider carefully why such an act is being done by youngmen and women, people highly cultured, people who would be ornaments in any society or in any country in the world. Why should they court death in this manner, I mean poison in one hand and pistol in the other? The Government must remember that an act of punishment on an innocent person recoils on them, and that fifty persons are converted against Government by one act of injustice. That was shown during the last civil disobedience movement. This movement would not have been spread to such an extent in 1930 if the lathi charges and other repressive acts had not been resorted to by Government. I ask the Government why they cannot think of other methods for the purpose of suppressing the movement. Why cannot they take steps to get the general Hindu public of Bengal, who, I must remind the Honourable the Home Member, supported the British rule in this country at most critical times and who went with the British troops to Peshawar and other places in support of the British administration, to co-operate with them—the Government should consider why they should range themselves against law and order and consider why they should range themselves against the British Government. It is time that the Government considered the matter carefully and seriously and not launch upon further repressive measures which can only estrange the people. If the Honourable Member would require any suggestion to be made in this matter, I would ask him first and foremost to give up the false idea of prestige and to deal out justice between man and man and between the police and the people. Secondly, they should separate the Judicial from the Executive functions, and make the High Court all powerful in matters judicial; and, thirdly, so far as Bengal is concerned, I am constrained to say, remove Mr. Prentice from the administration of the Government of Bengal.

Mr. Muhammad Anwar-ul-Azim (Chittagong Division: Muhammadan Rural): I hope the House will excuse me if my feeble voice does not reach all parts of the House, because I have got an attack of catarrh in my nose. I have listened with a very great amount of interest to what was going on on the floor of the House with regard to the various measures which have been passed and introduced for remedying the terrorist movement in my part of the country. I think it sometimes requires a great deal of courage to call a spade a spade because it entails a great moral responsibility and concomitant risk, but a just and conscientious man would never call a spade—a club or a diamond. I really wish that some of the previous speakers who have taken part in this debate had been more logical and accurate—am I audible, Mr. President?—with regard to facts and also had checked their tirade proclivities which are at once aroused as soon as they are in a position to catch.

Mr. President (The Honourable Sjr Ibrahim Rahimtoola): Honourable Member may come to the Front Bench and speak from there to avoid the strain.

Mr. Muhammad Anwar-ul-Azim: Thank you, Sir. (The Honourable Member then came to the Front Bench.) Once they are in a position to catch the eye of the President, they forget for the time being the whole world and do not care to respect those so much vaunted things as logic, consistency, etc.

As regards the situation in Chittagong, I think nobody in this House is in a better position than myself to tell the House what has happened there and what has been happening there since 1930. I represent that constituency, I have got a vast stake, by the grace of God, in that part of the country, and I am naturally anxious as a citizen of that place, that my people should live in peace and harmony and not be disturbed by anybody, either the Government or the Congress. I do not think it would be right for me to go in detail with regard to the situation which arose on the eve of the Moslem Conference in Chittagong in April, 1930, which sat on the 18th April. On the previous night, there was a huge raid over three important places in that district. Several people were killed, and the key positions which connect my part of Bengal with the other parts by train were taken off. If the Moslem delegates had not crossed that area an hour earlier, I am afraid at least about 40 brilliant first class Bengal Moslems would have lost their lives. There have been insinuations, clumsy insinuations, against my people. It has been suggested by certain friends in their wisdom that my people are responsible for the raid in 1930. A darker calumny there can never be, because the Government of Bengal, especially at that time, were more or less a partisan administration. In fact, I make bold to say, and I hope the Honourable the Home Member will excuse me, that in 1930 and even up to now you will not find among the C. I. D. officers a single Moslem, and if anybody suggests that the Moslems of Chittagong had anything to do with that raid or any other subsequent happenings, I am certain he does them a very great injustice, because my learned friend, Mr. S. C. Sen, has waxed eloquent with regard to the imposition of fines. Certainly that is a special matter, but when my learned friend quoted the percentage of his people and my people, I think my people were 82 per cent. of the whole area. If you have a curfew order, under which people could not get out from their houses, or have got to reach their houses by sunset or could not get out of their houses before the sun was up, in a place where we are 80 per cent. one can easily imagine who are the sufferers. I can assure you that both in the town and in the rural areas we were very great sufferers. Our trade has gone, practically the whole thing is at a standstill on account of the terrorist activities. So, it will not be right for Mr. Sen to say that his people are the only sufferers, but if a toll was taken and right conclusion was arrived at, it would be found that we Muslims have lost lakhs and lakhs. Furthermore, there was an insinuation that the executive of Chittagong sided with the Moslems, and that was an indirect cause of keeping the terrorist movement alive in that part of the country. We have seen recently that there were house searches in the town of Chittagong and the Moslems have not escaped from that. This matter was strongly agitated by the Muslim Members of the Bengal Legislative Council and what I feel is that that was manoeuvred by interested persons to give the

Mussalmans a bad name and bring them within the category of barbarous offenders, which they are not.

Now, with regard to my esteemed friend, Professor Sen, he has also insinuated that the raid on the Pahartali Institute was perhaps the doing of the Mussalmans. I am really surprised to hear that a gentleman of Pandit Sen's intelligence should come to that level of insinuation. The plain fact is that the Assam Bengal Railway Institute is situated near Pahartali station. Pahartali is about four miles West of the Chittagong town connected by a first class motor road and the place, where this road meets the station on its immediate left, is the Assam Bengal Railway works and immediately to the East of that works are the quarters of officers and along with those officers' quarters on the hill top are the quarters of the clerks in the valley, and on the immediate West of this Institute is the Assam Bengal Railway school, and to the immediate North and West are the residences of the clerks, mostly up-country and Sikhs, and immediate to the North are little elevations of hills. It will not be right for anybody to suggest that it will not be possible to commit mischief. They could easily come from the West, East and North and on the South side there being huge workshops. If my friend, Mr. Sen, has suggested that it was not in the range of practical possibility of mischief, he must be wrong. It was quite possible for them to do so. The Mussalman *busti* is about quarter of a mile on the sea coast which is to the North-West of the Institute and the inhabitants are mostly illiterate weavers. I am a law-abiding citizen and you must have noticed, Mr. President, that I do not take any partisan view on any matter, but I think great mischief is done by over exaggerating the real facts here on the floor of the Assembly and printing and broadcasting it in the world. If it were possible by any law or regulations to curb some of our proclivities here, I think that would be a first class solution of the trouble, better than even having autonomy in the provinces.

Several speakers before me have suggested what were right remedies for eradicating this movement. Mr. Abdul Matin Chaudhury and my esteemed friend, Mr. S. C. Mitra, have said that only full fledged Dominion Status will vanish this trouble like dew. Since I joined the Bar in 1920, I have had opportunities of working in District Boards, Municipalities, Universities and a hundred things like that in public life and, as a practising lawyer, I feel myself humbly that it will not meet the requirements of the case. The wave of unrest, which has been created, the wave of misunderstanding, which is allowed to germinate, is sufficient even to shake any established Government, and my suggestion to the Government of India would be to try to scotch this serpent and then you will find the situation very much easier. It requires a great amount of courage to scotch this serpent, but I can assure you, once you allow it to germinate, it will become a big giant and it will practically shake the whole fabric of society and civilisation.

You will remember, Mr. President, that during the last part of Mr. Sen's tirade, or rather address, he has tried to bring in the homily of Mr. B. C. Chatterjee, Leader of the Independent Party, in the Bengal Legislative Council. While the Bengal Municipal Bill was being discussed, Mr. Chatterjee addressed the officials and the Europeans and said: "We helped you in 1757. Why don't you trust us now?" That is a wrong view to take, because 1757 is past history. Let us live in this country peacefully. If we go on raking the sordid past, I am afraid we will turn this wonderful

[Mr. Muhammad Anwar-ul-Azim.]

land of ours into a desert. Several friends like Mr. Mitra and Pandit Sen have tried to show that the executive of the Government of Bengal is in a high mood and they are not respecting law and order. As a matter of fact, I have tried to defend some of the Ordinance accused while in Chittagong and my impression is this, that both the District Magistrate who is an experienced and sagacious man, and the Commissioner are not the people who will do this sort of thing. I know the police also. I am certain they will be the last persons in this world to budge an inch against law and order. They will never do it. It is absolutely unthinkable. It has been said by certain friends that the old District Magistrate of Chittagong was a party in the riot which arose after the death of Khan Bahadur Asanullah. Khan Bahadur Asanullah was a distinguished officer. He was murdered by a young man while he was watching a football match in the polo ground. As a matter of fact, I was at that time in Simla and immediately after I went down, I came to know about the riot which followed the death of Asanullah and it was not the result of any premeditated plan, but might have been the action of riff raffs who are everywhere in India.

With regard to the matter of fine, Mr. President, I have just mentioned that we Mussalmans were the greatest sufferers, in a hundred and one ways, and why there should be such a hue and cry for justly excluding us from this fine? The latest information, the latest communiqué is this that perhaps by that contribution certain parts of the Municipality and of the District Board of Chittagong will be improved, because the Government communiqué is very clear. I am very sorry that Mr. Sen, in his experienced wisdom, thought it proper to mention that certain Government officers told him something. In the absence of a name, I am certain nobody in any part of this House will pay any heed to that, Sir, because it is always possible to hit one back from behind. If I am standing here, and if anybody were to put his knife into me, that won't be fair. So if there was really a suggestion by anybody in Calcutta, I am certain Mr. Sen would have had the courage of his conviction and named him and he should not have taken shelter under any such pretext. So, in that view of the matter, I am certain, without meaning any disrespect to my Honourable friend, that perhaps he was not properly informed or he must have confused the whole idea; and, of course, the Government are sufficiently strong here to defend their officers. Bitter attacks have been launched upon Government officers both executive and judicial, but may I not pertinently ask my friends this question? They are all not taken from Ireland or England, most of them are your own people, and what good will it serve if you besmear sand on them? Is it consistent with your cry for Indianisation of services? Lastly, the very wrong insinuation was made that since 1906 the Government have been backing a certain class of people. I reply, certainly not. I most emphatically deny that insinuation, because what is the history? Of course, as you know, in 1906—the date of the genesis of terrorism in Bengal—perhaps Lord Curzon in his wisdom thought that certain results would be achieved by the Partition of Bengal. But the Bellicose Government of Lord Hardinge, yielded to their request and the Partition was reversed. But why bother about that? That is past history. Lastly, Sir, with regard to the clauses of the Bill, I have to say this much that perhaps there may be a certain force with regard to the contention of my friends to my right that at one stage when an accused had been sentenced to a certain term of punishment and he had not a chance of appealing to the High Court; but we have the authority of no less a

person than the Honourable the Law Member and if he assures us that that kind of thing will be stopped, and the accused's rights will be well met, then I do not think we can demur to that. So, to sum up, I think this is a highly desirable piece of legislation, and I trust that all of us, not excepting my Honourable friends, Mr. S. C. Sen, Pandit Sen and Mr. Mitra, will give our blessings and good wishes for the speedy passage of this Bill through the House.

Mr. B. V. Jadhav (Bombay Central Division: Non-Muhammadan Rural): Sir, I rise to support the amendment that the Bill be circulated for eliciting opinions of the High Courts moved by my friend, Mr. S. C. Mitra. Sir, my point is, that as the Honourable the Law Member explained that the jurisdiction of the chartered High Courts cannot be ousted by any legislation passed by this House, but that the High Courts that have been established under an Act of this House do not get any such privileged position and the Acts of this House will be binding upon such High Courts and their power of hearing appeals and revisions can be taken away from them by legislation passed in this House.

The Honourable Sir Brojendra Mitter: Sir, I have explained before that no such High Court is affected by this Bill.

Mr. B. V. Jadhav: Besides the chartered High Courts?

The Honourable Sir Brojendra Mitter: The only High Court affected is the Calcutta High Court.

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions: Muhammadan Rural): Is not this Bill confined to Bengal alone?

Mr. B. V. Jadhav: Certainly, but then it might at any time be extended to other provinces. If it be confined to Bengal alone, the question to be asked is, why this Bill is being brought in this Assembly and why it should not be passed by the Bengal Legislature?

The Honourable Sir Brojendra Mitter: Because they cannot do it.

Mr. B. V. Jadhav: Sir, I am rather afraid that at any future date its provisions might be extended to other Presidencies as well. (Sir Muhammad Yakub: "All the Presidency High Courts are chartered High Courts.") (Further interruptions). I am not giving way, and I would ask my Honourable friends to allow me to go on.

Sir, whenever the Government would require any such legislation, they may come before this House and may repeat the provisions of this present legislation and say, "such legislation has already been accepted by this very House on a previous occasion and, therefore, it ought to be accepted on this occasion also". Therefore, we have to be very careful as to what sort of legislation is allowed to be passed; and, therefore, I take this early opportunity of offering my opposition to this Bill here just now; and, although the present Bill is confined only to Bengal, I say that it ought to be circulated for eliciting the opinions of the High Courts. The High Courts' jurisdiction and powers of revision are going to be affected, although in the present case in Bengal in the first instance, but still I say the High Courts as a whole should present their opinions, and when these are before this Honourable House, they will furnish a very good guide for us to act, and, therefore, I press that the Bill ought to be circulated.

[Mr. B. V. Jadhav.]

Then, as regards the provisions of this Bill, although Government do not recognize the science of Homœopathy, still in the grappling with other ills than bodily ills, they do take advantage of the principles established by Hahnemann. (An Honourable Member: "Curing terrorism by terrorism.") I am coming to that. Sir, these are very stirring times and many people's minds are fixed upon securing more rights under the present constitution and under the future constitution.

In the Congress or outside the Congress, there are two schools of thought. One thinks that greater power can be won by means of violence. Mahatma Gandhi and his followers are the supporters of the opposite school and they preach non-violence. To the Government both schools are equally disagreeable. I do not think they make any difference between the two. The violent section is now dubbed the terrorists, because Government think that their idea or their mode of operation is to strike terror among Government officers and others so that the administration of the country would be thrown into confusion. Government equally are against the non-violent section of the politicians and they have very lately passed the Ordinance Bill to put them down. This Bill is for the violent section and, in both the cases, the idea is to strike terror, terror among the partizans of violence and also terror among the partizans of non-violence. So, the Government have in their mind only one sort of remedy. They want to strike terror and whenever they have to act in an emergency where legislation is not at hand, they proclaim martial law. I shall give the instance which occurred in my own province. At Sholapur, there was a riot and the Government of those days at once thought that it was necessary to proclaim martial law and as long as the provisions of the martial law were in force, the same steps to strike terror were adopted as are now taken in the district of Chittagong and other places. But let me tell the House that the proclamation of the martial law and the working of it at Sholapur, although it was for a very few days only, have undermined the trust of the people of that part of the country in the fairness and justice of the British Raj and they have come to look upon the Raj as being very violent and very cruel. (A Voice: "Everything is fair in love and war.") But it is no war. Warring against one's subjects is no war. I am not talking of love. To shoot defenceless subjects indiscriminately is no war at all. If it is anything, it is butchery. (A Voice: "What about the killing of police men?") That is butchery too. I condemn both. So, I feel, Sir, that this homœopathic remedy may not be of much effect. Terrorism is not to be put down by terrorism. It may go down for a time, and people may work more underground, but the spirit will be there and Government will not be able to command the love and affection of the people by these methods. With these words, Sir, I support the amendment.

Mr. N. N. Anklesaria (Bombay Northern Division: Non-Muhammadan Rural): I am sorry, Sir, I cannot support my Honourable friend, Mr. Mitra, in his present motion. I should have very much liked to support him if I could do so with reason and propriety. Sir, this Bill seeks to remove from the way of the Bengal Council an insuperable difficulty in its design to enact a piece of legislation which, in the circumstances of the case, has been admitted by all reasonable persons to be very necessary. I believe the Bengal Council is more competent to

pronounce an opinion on the present matter than my Honourable friend, Mr. Jadhav, and his supporters. That being the case, it is incumbent on my Honourable friends who have moved the amendments and my Honourable friends who have supported them to adduce some solid reasons in support of their statements. What are the reasons which have been adduced so far? It is said that it is necessary to obtain the opinions of the High Courts, especially the opinion of the High Court of Bengal. Now, Sir, I ask what is the High Court of Bengal going to say on the present matter? The Bill practically consists of three clauses, clauses 3, 4 and 5. As regards clause 3, which gives a right of appeal to the accused person, there can possibly be no objection to it from anybody in this House and no opinion of the High Court would be required on it. As regards clauses 4 and 5, is the High Court going to say that they are *ultra vires* of this Legislature? Can you ever expect the High Court to pronounce an opinion on a piece of legislation which they themselves will have to administer if this Bill becomes an Act? Sir, my experience is that more often than not the High Courts would refuse to put themselves in this awkward position and would refuse to pronounce any opinion on a Bill like the present one before it becomes a law and before a specific case has been brought before them for adjudication. Sir, the second ground adduced is that the law has been abused and the law sought to be enacted in the present Bill is also liable to be abused. I say, Sir, that that is not a ground for holding up this piece of legislation for the time it is sought to be held up by these amendments. That is a ground for rejecting the whole Bill, not for circulating it. I, therefore, oppose the amendments.

Mr. Nabakumar Sing Dudhoria (Calcutta Suburbs: Non-Muhammadan Urban): Sir, I rise to oppose this motion. The Bengal Suppression of Terrorist Outrages Act—the main legislation—was passed by the Bengal Council sometime ago. There the main principles—the essentials—of this legislation have all been accepted in the presence of Honourable Members, some of whom were of the Honourable the Mover's ways of thinking. The Bengal Council was the proper venue where such a motion should have been brought. And I should not wonder that a similarly-worded motion had already been moved in the Bengal Council and was lost. This House is not the proper place to consider such a proposition at this stage of this legislation. This House is not to re-do a thing that has already been done up, as I presume all the objections that my Honourable friend has set forth were all taken in the Bengal Council. This Supplementary Bill has come up before us to consider a couple of formal matters, because if this Legislature will not adjudge upon them forthwith, the law already made on the subject would remain defective, and complications would arise in the administration of that law. So, to my mind, my Honourable friend's motion intends only delaying of the passing of this salutary legislation. I say advisedly *salutary*, as there can be no two opinions that such a measure is insistently demanded at the present moment in the province of Bengal. Like a cancer terrorism has been eating into the vitals of the Bengal administration. Security, peace, good-will—those essential factors of good government—have all disappeared before terrorism. In Bengal, the terrorists have rendered the administration literally impossible. All sorts of Bengal public servants, high and low, have got either nervous or unnerved. Law-abiding people too cannot make themselves heard and felt anywhere in

[Mr. Nabakumar Sing Dudhoria.]

Bengal for fear of the terrorists. In some places, military has been posted to infuse courage into the dropping spirits of the officials. But that is not all and sufficient. Stringent legislation like the main Act is necessary to cope with the unheard of and unnatural situation that has come into being. All sorts of legislative safeguards, which have hitherto served as loopholes or hindrances, have to be temporarily suspended and abrogated till present conditions have improved. My Honourable friend should not, therefore, strain at a gnat when he has already swallowed a camel. The big pill has already been swallowed by his compeers in the Bengal Legislative Council. My Honourable friend should not refuse to swallow the smaller pill here in this House. I should, therefore, strongly advise my Honourable friend to withdraw his motion and let this legislation get through smoothly. (Cheers.)

Mr. B. N. Misra (Orissa Division: Non-Muhammadan): Sir, perhaps Honourable Members may think that I need not speak, because I do not know much about

An Honourable Member: Louder please.

Mr. B. N. Misra: Bengal and that I am not interested in it, because I do not come from Bengal. I have read just cursorily something about this. When I go through the Bill, I find in clause 3:

"An appeal under sub-section (1) shall be presented within thirty days from the date of the sentence, etc., etc."

In the Criminal Procedure Code, if I remember rightly, 60 days is allowed for an appeal and 90 days for revision.

An Honourable Member: Quite the reverse.

Mr. B. N. Misra: This is because our people have to come from vast distances and perhaps the people affected or their relations may not have time to travel these long distances and prefer an appeal since they live in out-of-way places and I think if they have to walk, it will take a long time. So this thirty days is, I think, too short a period. This Criminal Procedure Code has been in existence for so many years and people have got accustomed to this period of sixty days for appeal owing to the difficulties of conveyance and other things. We have to consider very carefully this curtailing from sixty to thirty days. It will be extremely difficult for the relations of these men who may be hanged or sentenced to transportation, to come: they may not know at all. From what we know of this terrorist movement, it is not a public movement; and it may not be known to their friends and relatives. In some cases these people are away from their homes and their parents and relations may not know that these so-called crimes have been perpetrated by them and they do not know why or how or what happened or they may come as *amicus curiae* to prefer an appeal or assist in the conduct of the case; but if the period is curtailed to thirty days, how it will be possible for these people to know? These people may have been misled: they may be students in Calcutta and, while reading there in the colleges, somehow or other they may have been caught in this movement or become anarchists. But on nobody's forehead is written that he is an

anarchist. A boy might have been misled or he might have been a good student: but if he is taken for an anarchist, then he comes under this Bill or law

Sir Muhammad Yakub: He will not come under this law.

Mr. B. N. Misra: Oh, yes. He will come under this Bengal Suppression of Terrorist Outrages (Supplementary) Bill. As I say, there is no caste or class written on their foreheads, Muhammadan or Hindu, to show that he is such and such a person or an anarchist. Can anybody point out that he is such and such an anarchist merely by looking at him? This is a new definition. You have to spot him: you have to find out whether he is an anarchist or not. I am just now reminded of what happened some 10 or 12 years ago. There was some Sitaramaraju who was doing havoc in Madras—not our Mr. Sitaramaraju who sits in front of me—I am not talking of him: but some 10 or 15 years ago, what happened was this: there was a man called Sitaramaraju and probably there was some misunderstanding between this man and his Police Inspector—this man was a police constable and probably he had a beautiful wife and the Police Inspector cast evil eyes on her and then he appealed to all the authorities to help him; but the authorities never helped him or listened to him and, therefore, the man became convinced that there was no truth or justice in the British Government and, therefore, he became a declared anarchist on account of the folly of the Government and their officers. Some people become anarchists, because they do not get justice and then they come prepared to shoot a man and kill him. That is what we read in the papers. So there must be something wrong for which these people take recourse to this. Instead of the Government employing some C. I. D. officers to find out such acts of folly and stupidity which drive these men to anarchism, they simply want to shoot men and kill them. This Government, being a wise and powerful and big Government, ought to try and find out why these few people—after all they are only a few hundreds or less—go and do this sort of thing. They do not try to find out as to why these people become anarchists. If the Govern-

4 P.M. ment are really sincere about the matter, such a powerful Government as this Government can very easily find out the causes which lead young men to become anarchists. Instead of trying to find out the real causes, they simply catch hold of some and hang them by calling them anarchists. They do not care to find out the defects and shortcomings of their own subordinate officers like District Magistrates, Police Superintendents and others. Therefore, I feel that the thirty days provided here for preferring an appeal is too small a period. Poor people who suffer at the hands of the police cannot command aeroplanes or special trains. They naturally take a long time to collect the papers and get copies of the documents. You cannot prefer an appeal without getting a copy of the judgment, and I think the Limitation Act provides that time for obtaining a copy of order must be excluded. If you give 30 days' time, I think the High Court will have no powers, because you will be taking away the beneficial powers given under the Limitation Act for obtaining copies and other things. The man concerned may not have money or he may have other difficulties. So the period of 30 days provided here for preferring an appeal is too small and it should be extended.

Then, Sir, in clause 5 of this Bill, it is stated that "Notwithstanding the provisions of the Code, or of any other law for the time being in

[Mr. B. N. Misra:] force, or of anything having the force of law" and so on. I cannot understand how "anything having the force of law" have the force of law. (Laughter.) It must be made clear by the Honourable the Law Member. I cannot understand how a thing can have the force of law. It is for the Law Member to explain as to what he means by the expression "or of anything having the force of law", how a thing can have the force of law, I cannot understand. (Laughter.) After all, the anarchist movement is not such a movement as the movement of the Law Member and the Home Member (Laughter), and, therefore, I cannot understand what is meant by a thing having the force of law. As I was saying in the beginning that 90 days are allowed for revision in appeal cases

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member is repeating himself.

Mr. B. N. Misra: I am merely pointing out the difficulties of the people who will be affected by this measure. Government merely catch hold of some people and hang them; they merely give a dog a bad name and hang it; similarly they catch a man and call him an anarchist.

An Honourable Member: How many times have you given this reference?

Mr. B. N. Misra: I think my friends are somewhat impatient, and so I shall not be very long.

An Honourable Member: No, no.

Sir Muhammad Yakub: It is a pleasure to listen to you.

Mr. B. N. Misra: Sir, I support the motion of my friend, Mr. Misra, for circulation.

Major Nawab Ahmad Nawaz Khan (Nominated Non-Official): Sir, as I like the people of Bengal and their province, so I have great sympathy for them. I am really sorry to find that the terrorists are sucking the blood of the Bengalis, and destroying the prosperity and peace in Bengal. I am surprised to see that while some Honourable Members admit that they are against the terrorist movement, yet they generally try to oppose any measure which is brought forward in this House to check the terrorist activities. I cannot understand this kind of mentality. I come from a province where plain speaking is considered to be much better than hypocrisy. I would have appreciated the force of the arguments of my Honourable friends if they had stood up and said that the terrorist movement was a very good thing and that it was useful politically in the interests of India, and then they could have advanced any arguments against any measure brought before this House; but I cannot understand how when in one moment they say that they are opposed to the terrorist movement but, in another moment, many of them directly support that movement by putting forward lots of amendments in order to make the Bill ineffective or by providing so many loopholes under many excuses and generally in the name of curtailing the powers of the

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High Court, and sometimes complaining about the police and so make the mask of their arguments so thin that any sensible man can understand what is behind the mind of those who resort to putting forward these amendments and many other objections. No reasonable man in this House can believe that our able Law Member is against the powers of the High Court

An Honourable Member: Of Calcutta.

Major Nawab Ahmad Nawaz Khan: not only of Calcutta, but of any High Court. He is an eminent lawyer. He has been brought up in that atmosphere. Therefore, it is hardly fair for people with lesser experience and having much less legal knowledge, with much less patriotism to say that the Law Member is for the curtailment of the powers of the High Courts, or that he is doing a lot of injustice to the Bengalees or he is going to ruin his province.

An Honourable Member He is a Bengal man.

Major Nawab Ahmad Nawaz Khan: That fact is too well known to every body here. The difference only is this. He holds a position of responsibility for maintaining law and order. He treats everything equally whether the law and order is broken by a Hindu, or by a Muslim, or a Sikh or anybody else. But those, who have not got the responsibility at all and have got a different atmosphere in which to move, have to please their constituencies, they have to look to their future votes in the elections. They have to show to the public how gallantly they have fought against the Government for them. I do not blame them for it, because that is the only proper channel for them to show their work to the public. But, after all, we have a greater duty than that. If we go on directly or indirectly supporting the terrorist movement, what would be the result? Do the Honourable Members think that any Government will leave the country into the hands of the terrorists? No Government on earth can or will do that. It is wrong to think so, if one thinks why all the previous measures have not been very successful against the terrorists. The cause of their failure was because those measures were weak, and if the present measure does not succeed, it means it is not quite sufficiently strong. If the opposition becomes stronger, the Government have to become stronger still. If Honourable Members ask that this Bill should be given up, let them suggest a better and stronger measure for eradicating this evil, but it is no use saying, be lenient, be lenient, be lenient. We have seen the results of that policy in Lord Irwin's time. He went to the extreme limits of leniency, but terrorism did not stop. It grew more and more. It is no pleasure to tease somebody or ruin some class of His Majesty's subjects that the Home Member or the Law Member brings up such a measure as this. It has been forced on them. It is not a pleasure for the doctor to cut out a limb of his patient. He does it only when according to the medical science he feels that he must cut out the limb in order to save the life of the man. We have to make the executive strong enough to stop the terrorist activities.

I see one point always stressed by the lawyers about the powers of the High Courts. I must tell them that the maintenance of law and order does not only depend upon the High Court; it depends much more upon the executive, and the two arms of the executive are the military and the police. For instance, if a judge passes an order, it will have to be enforced by the executive. You may have 3,000 first class good judges of High Courts, but

[Major Nawab Ahmad Nawaz Khan:] will they go to every town and every village and every street to enforce their orders? Sir, the Government is just like a human machinery. You do not like a good brain without a good stomach.

An Honourable Member: Cut off the head.

Major Nawab Ahmad Nawaz Khan: Those persons who do not wish to see a strong Government—let them commit suicide, so much the better. Truly speaking, it is not the Government that are bringing this measure; it is the terrorists themselves who are courting such measures. If terrorism becomes more strong, then Government will be compelled to bring in stronger measures to combat that. (*An Honourable Member:* "What can you think of stronger than this?") (*Another Honourable Member:* "Martial Law.") Whatever that may be, it depends upon the necessity and the occasion, and the judgment of that rests with the Government and not with irresponsible people. Sir, the present measure is a very useful one for eradicating the evil of terrorism from the province of Bengal. Therefore, I wish to support the Bill and oppose the amendments.

Mr. O. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): I do not propose to go at this stage into the labyrinthine intricacies of legal arguments. The Honourable gentleman who just concluded his speech made a reference to a responsible Government and to an "irresponsible", he did not say, Opposition, but that is perhaps what he meant. All we are concerned with here is to put up a fight, as I believe every Opposition in every Parliament is entitled to put up a fight, against the invasion by Government of certain legal rights which have been enjoyed hitherto. I do not for a moment deny that the more spacious discussion on the wider issues have taken place in the Provincial Council, but the responsibility for widening the field of discussion here rests entirely with the Honourable the Mover of this Bill himself who need not unnecessarily have dragged us over a wider range. He could have confined himself to the legal issue and left the terrorists alone. No one on this side of the House is in sympathy with terror. Everybody wants to extirpate terror, but when you want to extirpate terror, you need not at the same time attempt the extirpation of certain of the legal proceedings which have been in practice hitherto. But that controversy would rage at a later stage when clause 5 of the Bill is taken up which excludes the interference of Courts with proceedings under the Local Act. I do not believe the Honourable gentlemen who have moved the amendments in regard to circulation, whether by referring it to the High Courts, as my Honourable friend, Mr. Mitra, wanted, or circulating it in the sense in which my Honourable friend, Mr. Sen, wanted—I do not believe that they would press those amendments to a division, for after the observations made by Mr. S. C. Sen, it is pretty clear that such a pressing of the amendments to a division would become superfluous. We admit that clause 3 of the Bill is a salutary one. Nobody on this side of the House has objected to clause 3. As pointed out in the Notes on Clauses, this clause now supplements certain provisions by providing for appeal to the High Court in all cases in the Presidency-town of Calcutta where there is no Court of Session, and for appeals in the mufassil in the more serious cases. But our controversy would be when clause 5 of the Bill is taken up, which I believe will be pressed to a division. With these few words I conclude my observations.

Some Honourable Members: Let the question be now put.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): I accept the closure. The question is that the question be now put.

The motion was adopted.

The Honourable Mr. H. G. Haig: Sir, I need not delay the House by arguing at any length the question of the amendments that have been put forward for circulation of the Bill. I have the great advantage of having support for my view from both sides of the House. My Honourable friend, Mr. Anklesaria, argued very effectively that there was no necessity and no advantage in circulating this Bill to High Courts and it has been admitted frankly on the other side by my Honourable friend, Mr. Sen, and just now by the Honourable the Deputy Leader of the Nationalist Party that in fact it would serve no useful purpose. The powers which the Bengal Suppression of Terrorist Outrages Act is replacing come to an end at the end of this year and, therefore, the supplementary powers which we require for the Bengal Suppression of Terrorist Outrages Act are required by the end of this year. It is quite obvious that no motion for circulation would meet those conditions, and that the further discussion of this Bill would have to be prolonged far into the next Session.

It is also unnecessary for me, I think, to deal with certain suggestions that were made at an earlier stage of the debate which, I must confess I did not quite understand, that this measure curtailed or interfered with the right of appeal. As my Honourable friend, Mr. Ranga Iyer, has just now pointed out to the House, the measure on the contrary provides an appeal which otherwise would not be possible, namely, an appeal to the High Court. I must, however, say something about the speech delivered this morning by Pandit Satyendra Nath Sen. I think that the Honourable Member endeavoured both to minimise the activities of the terrorists and to suggest that the Government were responsible for such activities as did take place. His first saying was that Government smell terrorism everywhere. Well, Sir, I think the Honourable Member must be deficient not only in the sense of smell, but in all the five senses if he is not aware of the long catalogue of outrages which have characterised the terrorist movement. It is no question of the Government's smelling terrorism, but terrorism obtrudes itself upon the attention of every reasonable person. Apparently, however, it does not obtrude itself on the attention of the Honourable Member. So indifferent is he to the activities of the terrorists that he was actually under the impression that the shocking outrage at Pahartali involved no casualty. I have looked up the facts. Actually on that occasion one woman was killed, ten persons were seriously injured, three of them being women and seven men, and three others were slightly injured. And yet that outrage had apparently escaped the notice of the Honourable Member. He assured us at the beginning of his speech that he had no sympathy with terrorism. I think, Sir, it needs no assurance to show us that he has no sympathy with the victims of terrorism. Then, Sir, his second statement was that terrorism begets terrorism and by that he apparently intended to indicate that it was only the actions of Government which drove the terrorists to these outrages. That, Sir, appears to me to be an amazing inversion of the facts and I should like to illustrate that by an example, which he himself gave, the chain of incidents that happened at Chittagong. The first was a very daring and effective raid which was made in April, 1930, by a large band of revolutionaries on the armoury at Chittagong. It was made at

[Mr. H. G. Haig.]

a time when the Government of Bengal had recently allowed part of their special powers against the terrorists to lapse. It was made within a month of the lapsing of those powers. Surely the Honourable Member does not suggest that this was done in retaliation for action taken by the Government. And then we come on, in August, 1931, to certain deplorable events on which the Honourable Member has laid great stress. There were certain excesses committed. That has been admitted by the Government and the Government have no wish to condone them. But, again, what led up to that? It is well known that a very popular Police Inspector, Inspector Asanullah, was brutally murdered at a football match and that was too much for the discipline of some of the officers of Government. Then, in September, 1932, came this Pahartali outrage. Does the Honourable Member really suggest that that was in retaliation for what happened at Chittagong over a year before in August, 1931? Once the facts are examined, the theory breaks down completely.

Now, Sir, I pass on to the observations of my Honourable friend, Mr. Sen. He gave us a long history of the terrorist movement and the lesson he sought to draw was that the length of that movement proved that our methods had not been successful and that we must seek new methods. My answer is this. Those methods have at any rate kept the terrorist movement within bounds and there have been times when it has practically ceased. As I read the history of that movement, what has happened is that whenever the precautions have been relaxed, the movement has revived. That was markedly the case in the years immediately preceding that outrage in Chittagong which I just mentioned in 1930, from which point the present revival of the terrorist movement may be dated. For some two or three years before that, the action of Government had been steadily and deliberately relaxed and, just when that policy was very nearly completed, came this big revival of the terrorist movement. That, Sir, may suggest to the House that we cannot afford to relax our precautions. And, after all, what other remedy is there? The Honourable Member attempted to suggest something. He said, "why not have an inquiry, why not have another Rowlatt Committee?" But, Sir, the work of inquiry has already been done by that very Rowlatt Committee. That was precisely why the Rowlatt Committee was appointed. They went most elaborately into the causes and the mentality, as well as the remedies for that terrorist movement, and actually our present policy is based on the recommendations of the Rowlatt Committee. The Honourable Member finally was driven to state what I cannot help looking upon as very insignificant and inadequate causes to account for this terrorist movement. He suggested three things, I think, the removal of which might bring it to an end or bring about an improvement. One was that Government should not consider its prestige. Does the Honourable Member really consider it a matter of prestige that Government should take action when its officers are murdered? Then the second was that we should separate the Executive and the Judicial. Well, I find it difficult to believe that the terrorists are interested in such matters as the separation of the judicial and the executive functions. Their minds move on much wider lines. They think, if I may say so, far more vigorously than the Honourable Member who puts forward these suggestions. They have a wider ambition. They are not going to be satisfied with the separation of the Judicial from the Executive. In the third place, I think my Honourable

friend suggested that if a particular officer of Government were not in his place, the terrorists would be placated. Well, Sir, the reputation of Mr. Prentice requires no defence. But I would suggest to my Honourable friend that those again are not the kind of causes of this terrorist movement. We have to go far deeper than that. These men are, in fact, devoted to their cause, wrongly devoted to their cause no doubt, but they are, as far as I can judge, deeply devoted to their cause, and it is a matter of great difficulty, and I am afraid it will be question of a very long period before we can root out this terrorist movement and this terrorist mentality. Now, the Bengal Council, who knew the facts, passed this Bill by a large majority. We are not really sitting in judgment on what they did. We are merely discussing a small measure which supplements theirs. Sir, this terrorism is a poisonous growth which must be rooted out, and we are bound to give the Government of Bengal all the assistance they require in rooting it out. (Loud Applause.)

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st of January, 1933."

The motion was negatived.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That the Bill be circulated for the purpose of eliciting opinion of the various High Courts in India by the end of December, 1932."

The motion was negatived.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That the Bill to supplement the Bengal Suppression of Terrorist Outrages Act, 1932, be taken into consideration."

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That clause 4 do stand part of the Bill."

Mr. Sen.

Mr. S. C. Sen: Sir, I move:

"That clause 4 of the Bill be omitted."

The Bengal Government have adopted section 19 of the Bengal Act. Now, if their adoption is valid and within their power, I do not see why we should interfere with that. If, however, that is beyond their power,

[Mr. S. C. Sen.]

I do not see why we should validate the same. Now, what is the power conferred by section 19:

"Except as provided in this Chapter, no proceeding or order purporting to be taken or made under this Chapter shall be called in question by a Court and no civil or criminal proceedings shall be instituted against any person for any act in good faith done or intended to be done under this Chapter."

Sir, this provision gives an indemnity to the Government officials mentioned in the Act from all consequences of their action whether they may be excesses, or *ultra vires*. The Honourable the Home Member, when introducing the Ordinance Bill, I think, admitted that there were certain cases of excesses, and with regard to the catalogue of excesses which were put forward before him by some of the speakers on that occasion, he told the House that he also had treasured extracts from other sources to show that excesses had been committed by the people also. I fully admit that, Sir, but the excesses committed by the people are to be punished and were punished, but what about the excesses committed by his own Department, by the police or by other Government officials? Has any action been taken against them, or is there any possibility of any action being taken against them? I admit, there have been excesses committed by the people, and such excesses have been or are liable to be punished, but what about the punishment of officials who, as the Honourable the Home Member himself admitted, had also committed excesses? That is the point which goes to the root of this clause. If you have a clause like this on the Statute, it is a sort of a premium for the subordinate officials to go wrong. They know that they cannot be hauled up; they cannot be punished in a Court of law and, therefore, they act with a sense of irresponsibility which is very peculiar in this country. My friend, Mr. Mitra, quoted the other day certain excesses committed by the punitive police at Midnapore. I do not think the Honourable the Home Member was cognizant of these excesses nor could he deny them. All the same, I would ask him what steps have Government taken in connection with those excesses? Were those men punished? No. The Government keep their mind open and never look at these things. If you have a clause like this, it is bound to re-act on the Government themselves. Moreover, a provision like this was in the Ordinance and, since then, certain safeguards have been added to the Bengal Act. What about those safeguards? If they are not acted upon and if they are disregarded by the executive, what would happen? Nobody can take action against the police and those persons who wilfully disregard these safeguards? Sir, I will mention the clauses in which such safeguards have been put forward. The proviso to section 4 of the Bengal Act was not in the Ordinance:

"Provided also that the land or building—

- (a) shall not be so utilised as to wound the religious feelings of the owner or of the persons who were in occupation when possession was taken; and
- (b) shall not, as far as practicable, be so utilized as to interfere with access to any place of worship situated in or contiguous to the land or building."

Supposing this safeguard, which was put by the Bengal Council, was disregarded by the District Magistrate or by his subordinates, what would happen then? May I ask the Honourable the Home Member if there is any remedy for the owner to ventilate his grievance and, if so, where?

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Section 19 debars his taking any action. Then, again, Sir, I would refer the Honourable the Home Member to the proviso to section 11:

"Provided that before passing any order under this section, the District Magistrate shall satisfy himself that such order is not of a harassing or humiliating nature or incompatible with the ability or position in life of the person concerned."

That is a very important proviso. We have known of cases during the Partition days when respectable zamindars were made special constables. Even now, if I remember aright, some of the respectable pleaders of Noakhali were appointed special constables for the purpose of accompanying a postal peon from door to door. That was the order given by the District Magistrate of Comilla and, if I remember aright, similar orders were passed also on certain respective inhabitants in some other parts of the country. To avoid all those difficulties, this clause has been added. Now, supposing the District Magistrate is to disregard this clause, where is the man to go to? Of course, under the Criminal Procedure Code, when a person is appointed a special constable, the man can go before the High Court and that was done during the Partition days. But now you are debarring the High Court also from taking any cognizance of such a matter as this. How is that to be remedied? I appeal to the Honourable the Home Member to consider this matter and then to say what remedy that man has. He will say: the District Magistrate cannot do all these things. I know the Civil Service is considered to be infallible—next to God it is infallible—but we do not believe that. Then, Sir, section 14 also provides for safeguards. There it is said:

"If any person disobeys or neglects to comply with an order made, direction given, or condition prescribed, in accordance with the provisions of this Chapter, the authority, which made the order, gave the direction or prescribed the condition, may take or cause to be taken such action as it thinks necessary to give effect thereto, but shall not in any case inflict more harm than is necessary for such purpose."

Supposing more harm is done, what would be the remedy? Of course, it is a very debatable point whether more harm has been done or not, but there is such a thing also in the Indian Penal Code as regards private defence by a person and it is there stated that he shall not use more force than is necessary. Here also he cannot do more harm than is necessary. I know of cases in Calcutta where, because the inmates of the house were sleeping, the police got on to the top and broke all the sashes that they could find. Sir, what is the remedy which the Home Member suggests, should be given to the man if these safeguards are not complied with? Then, Sir, I come to clause 15, the proviso of which is very important. It says:

"The Local Government may exempt any person or class or section of such inhabitants from liability to pay any portion of such fine:

Provided that such exemption shall not be based upon communal or racial considerations."

This clause is very very important. Supposing that is done, what is the remedy? I would ask the Honourable the Home Member to tell me if there is any remedy open to me to protest against that order? None whatever. I will also ask the Home Member in all seriousness whether he considers that such a section should be on the Statute-book at all? Sir, the Honourable the Home Member's objection to the interference by Civil

[Mr. S. C. Sen.]

Courts is, as stated by him at the time when he introduced the Bill, as follows:

"The next provision, clause 4, extends the effect of section 19 of the local Act. The Bengal Council, in passing their Act, felt it necessary to provide that orders made under the emergency powers which are conferred by the first part of the Act should not be called in question by any Court, and I think it is obvious that if these powers are to be effective, they cannot be made subject to injunctions of the Courts."

I do not know in what sense the word "injunctions" has been used by the Home Member. Does he mean the legal injunction, an injunction issued by a Court to restrain a public officer from doing certain things which under this Act he is authorised to do? If that is so, I do not think that his apprehension has any value whatever. These are all executive actions provided for in this section and, as pointed out by the Honourable the Law Member, the other day, from the judgment of Sir Lawrence Jenkins, no Court can interfere with executive actions of an executive officer. Sir, under these circumstances, I submit, that a provision like this is contrary to morality, contrary to law and contrary to commonsense. I move my amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Amendment moved:

"That clause 4 of the Bill be omitted."

The Honourable Sir Brojendra Mitter: Sir, my Honourable friend, Mr. Sen, addressed this House as if clause 19 of the Bengal Act were before this House, and all his arguments were addressed to that point. I shall show presently that his argument would lead to an anomaly. Section 19 we cannot touch, because it has been passed by the Bengal Council.

Mr. S. C. Sen: But we can refuse to validate.

The Honourable Sir Brojendra Mitter: What is the effect of section 19? The effect is that if any cause of action arises in the districts, then, by virtue of section 19, there is no remedy. I put it baldly like that.

Mr. S. C. Sen: I fully appreciate that.

The Honourable Sir Brojendra Mitter: If all the cases, which my friend cited, arose in the districts, then, as it is, there is no remedy. My friend asks, if the safeguards under section 4 or 11 or 15 were disregarded, what answer has the Home Member? What remedy is there? After the passing of the Bengal Act, if the acts were done in good faith, there is no remedy so far as the districts are concerned. We are not doing anything here to shut out remedy which is otherwise available. What we are at present doing is this: we are extending section 19 to the town of Calcutta: that is all: Section 19 bars the jurisdiction of Civil Courts. It is an indemnity section providing that no proceeding or action shall lie against an officer acting in good faith. My friend all the time ignored those significant words in section 19—the action must be in good faith. If the action be not in good faith, the protection under section 19 is not available. If the protection, which section 19 gives to the officers in the districts, be not extended to officers in the Presidency-town of Calcutta, then, if the cause of action arose in Calcutta, a suit or proceeding would lie in the High Court. The Local

Council had no jurisdiction to deal with the matter; and that is stated in the Statement of Objects and Reasons:

Section 19 of the Local Act (Bar of jurisdiction in certain matters) cannot affect the jurisdiction of the High Court. This clause of the Bill extends the bar of jurisdiction to the High Court also.

To my friend's illustrations as regards the disregard of safeguards or excesses by the police and so on, my short answer is this, that if the act is not done in good faith there is no protection. All remedies under the ordinary law are available to the aggrieved person. If the act is done in good faith, section 19 gives protection in the districts; and clause 4 purports to extend that protection to officers in Calcutta. Sir, I oppose the amendment.

Pandit Satyendra Nath Sen: Sir, perhaps being a layman I failed to catch the exact import of this mystic clause. It has now been made clear by the Honourable the Law Member that this Bill provides some remedy so far as Calcutta is concerned: for the district there is absolutely no remedy. In other words, they rest entirely on the mercy of the police. When we remember that there are reactionary papers in this country, like the *Statesman* conducted by my Honourable friend, Mr. Arthur Moore, we have reasons to believe that the police may be encouraged in acts of violence in some cases. I shall only present this House with

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Has the Honourable Member realised what the issue before the House is?

Pandit Satyendra Nath Sen: Yes, Sir.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): What is it?

Pandit Satyendra Nath Sen: I find that these are meant to be executive acts

Mr. President (The Honourable Sir Ibrahim Rahimtoola): That is what the Chair thought: the Honourable Member has not realised the real issue before the House. The Bengal Council has given indemnity for acts throughout the whole of Bengal. This clause proposes to extend that indemnity to the town of Calcutta. That is the issue, and if the Honourable Member has anything to say on that issue, objecting to its extension to Calcutta, or anything of that kind, he would be relevant, not otherwise.

Pandit Satyendra Nath Sen: Yes; my point is that these acts are extended to Calcutta also

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Proposed to be extended.

Pandit Satyendra Nath Sen: and so far as Calcutta is concerned, these acts are to be regarded as executive acts and there is no remedy. We have read about the divine right of kings, but we have not yet heard about the divine right of the police or of the Magistrate. This amounts to saying that the police can do no wrong. In the circumstances, I think the original Act is most atrocious and what this clause wants to do is to extend that Act to Calcutta also. Therefore, I want to omit this clause.

LEGISLATIVE ASSEMBLY.

Wednesday, 14th December, 1932.

9 FEB

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

QUESTIONS AND ANSWERS.

COMBINATION OF CERTAIN COMPANIES DEALING IN PETROL.

1664. *Mr. S. C. Mitra (on behalf of Sardar Sant Singh): Are Government aware that Burma Shell is a combination of the Burma Oil Co., and the Asiatic Petroleum Co., who represent the Royal Dutch or Shell Group and are drawing all their supplies of kerosene oil from Burma? If so, is it a fact that the difference in duty and excise is one anna per gallon? Are Government aware that they are losing in customs one anna per gallon in all business which should have been Asiatic Petroleum Company's?

The Honourable Sir George Schuster: The Government are aware that the Burma Shell Oil Storage and Distributing Company of India took over the marketing organisations in India of the Burma Oil Company, and the Asiatic Petroleum Company (India), which latter had previously been the marketing organisation of the Royal Dutch-Shell Group; but they have no information on the question whether the Burma Shell Company is drawing all its supplies of kerosene oil from Burma.

I do not follow the purport of the Honourable Member's other questions. It is only natural that India's consumption of kerosene should be largely met from supplies produced in India and which therefore have only paid the excise duty. I do not see how this can be described as a loss, nor how the agency, through which the kerosene is sold, affects the position.

The difference between the rate of excise duty and that of customs duty on kerosene is 11½ pies, not 1 anna.

PRICES OF KEROSENE AND PETROL.

1665. *Mr. S. C. Mitra (on behalf of Sardar Sant Singh): Are Government aware that the prices of kerosene and petrol have been brought down only in such places where new Indian companies (National Petroleum Co., and the Western India Oil Distributing Co.) have placed their products in the market? Are Government also aware that the prices in other places have in certain cases gone up?

The Honourable Sir Joseph Bhoré: The Government of India are not in possession of complete information on the subject.

Mr. S. C. Mitra: Sir, Mr. Sen in his very lucid speech gave all the arguments for the deletion of this clause. In reply to him all that I could understand the Law Member to say is that because the Government of India think that the Local Government had no power to enact such a law for the City of Calcutta, it is required to have it passed by this House. Now, putting his argument at the highest, it is said because some law for which we have heard no explanation has been enacted for the rest of the province—why, such a law may be immoral, there may not be any justification for it to be extended to the City of Calcutta

The Honourable Sir Brojendra Mitter: I emphasised good faith.

Mr. S. C. Mitra: My argument is that Mr. Sen narrated several cases, provision for which has been made in the Bengal Act itself. If those things are not adhered to or not followed by officers, what are the remedies of the aggrieved party? To that question I think the Honourable the Law Member has not replied. He merely said that if a man does anything in good faith, he is justified to do any kind of wrong; he can forfeit a man's property; he can search or detain a man wrongly; he need not follow the rules embodied by Government in their own laws; he can ride rough shod over everything, provided there is the one element of good faith; and that is the reason why we said earlier in this debate that this law was even worse than martial law. There is a law of indemnity passed later on and officers know that they run a risk before the law of indemnity is passed where the whole question may be discussed. Here, before we enact a law, we tack it with indemnity clauses thus making all the people reckless. They have only to say that they did it in good faith, and then the jurisdiction of the Courts, both civil and criminal, is ousted

The Honourable Sir Brojendra Mitter: Mere assertion of good faith will not do; it must be good faith.

Mr. S. C. Mitra: My difficulty is this. The Courts will hold, this being an executive order under the law, they have no jurisdiction. If they enter into the merits of the case, then only the question of good faith will arise. As a matter of practice, the Courts will be unwilling, under the provisions of this Bill, even to entertain any such application whether it is in the nature of a civil or criminal remedy. That is the reason why, though we cannot go into the merits of the Act passed by the Bengal Council, we should not, with our eyes open, extend it to the City of Calcutta, even though it has no justification on its own strength. For these reasons I support Mr. Sen's amendment.

The Honourable Mr. H. G. Haig: My Honourable colleague, the Law Member, has clearly explained the practical effect of this provision, and I do not think I need add anything to what he said. I would merely say this with reference to what my friend, Mr. Sen, has said. He gave, as an illustration of his argument, the proviso to section 11:

"Provided that before passing any order under this section, the District Magistrate shall satisfy himself that such order is not of a harassing or humiliating nature"

That, I think, affords a good example of a case in which one cannot really, if these provisions are to be effective at all, allow a Civil Court to hold an inquiry which might extend over six weeks or two months as to whether a proposed order was of a humiliating nature or not, because in the meantime the executive will be paralysed. It seems to me, Sir, it will be impossible in the case of executive orders of this character which are, I would remind the House, intended to meet very special conditions and only applied in particular areas where the terrorist movement is particularly active, it is, to my mind, impossible in the case of executive orders of this kind, to allow references and long arguments before Civil Courts.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question which I have now to put is:

"That clause 4 of the Bill be omitted."

The motion was negatived.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That clause 4 do stand part of the Bill."

The motion was adopted.

Clause 4 was added to the Bill.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 14th December, 1932.

PRICE OF PETROL IN INDIA.

1666. *Mr. S. C. Mitra (on behalf of Sardar Sant Singh): Is it a fact that the price of petrol was raised by six pies by all petrol companies 15 days before the arrival of the Western India Oil Distributing Co.'s first consignment? Do Government propose to inquire into the causes that led to the raising of the prices throughout India and will Government lay the result of their investigation on the table of this House?

The Honourable Sir Joseph Bhoré: The answer to the first part of the question is in the affirmative. As regards the second part, the reply is in the negative.

ANNUAL DIVIDEND DECLARED BY CERTAIN OIL COMPANIES.

1667. *Mr. S. C. Mitra (on behalf of Sardar Sant Singh): Are Government aware of the annual dividend declared by the Burma Oil Co., Standard Oil Co., Shell Group and the I. B. P. during the years 1929, 1930 and 1931? If so, will Government kindly state the same?

The Honourable Sir Joseph Bhoré: I lay on the table a statement showing the information asked for by the Honourable Member so far as it is available.

Statement showing the dividend declared by certain Oil Companies during the years 1929, 1930 and 1931.

Name of Company.	Year.	Dividend.
Burma Oil Co., Ltd.	1929	30%
	1930	22½%
	1931	17½%
Standard Oil Co. (New Jersey)	1929	7½%
	1930	8%
	1931	Not available.
Royal Dutch	1929	24%
	1930	17%
	1931	6%
I. P. B.	Not available.	

COMBINATION OF CERTAIN COMPANIES DEALING IN PETROL.

1668. *Mr. S. C. Mitra (on behalf of Sardar Sant Singh): Have Government commenced investigation into the question whether the oil companies have a combine or not as promised by them in reply to my starred question No. 159 of the 8th September, 1932? If so, when is the inquiry likely to be completed?

The Honourable Sir Joseph Bhoré: Yes; an inquiry is being made but it is not possible to state by what date it will be completed.

PRICE OF PETROL IN INDIA.

1669. *Mr. S. C. Mitra (on behalf of Sardar Sant Singh): (a) Are Government aware that Russian petrol arrives c. i. f. in Indian ports at 0-2-9 per gallon, and the duty being 0-10-0 per gallon, the cost price would be 0-12-9 per gallon? Do Government propose to make inquiries if it is so?

(b) If the result of the inquiry confirms the above price, are Government prepared to take measures to control the price of petrol at about Rs. 1-2-0 per gallon at the main ports leaving a substantial margin of profits for the company, besides dealers' commission?

(c) Are Government prepared to control the price of kerosene on the same basis as above in order to relieve the poor consumer?

The Honourable Sir Joseph Bhoré: (a) The Government of India understand that the price of Russian petrol in Indian ports is said to be 2 annas 9 pies per gallon c. i. f. They have no definite information in the matter and do not consider that it would be possible to verify by enquiry whether this is an economic price.

(b) and (c). No.

RAILWAY MAIL SERVICE DIVISIONS OF THE POSTS AND TELEGRAPHS DEPARTMENT.

1670. *Mr. S. C. Mitra (on behalf of Seth Haji Abdoolah Haroon): (a) Will Government be pleased to state how many Divisions there are in the Railway Mail Service branch in the Posts and Telegraphs Department?

(b) Is it a fact that the gradation list of the Railway Mail Service is entirely separate from the Post Office and promotions, etc., are made in each branch separately?

(c) Is it a fact that all the Railway Mail Service Divisions in India are in the charge of Non-Muslim Superintendents, almost all of whom are Hindus?

(d) If so, are Government prepared to issue immediate orders to the effect that at least one Railway Mail Service Division in each Circle should be placed in charge of a Muslim Superintendent?

The Honourable Sir Frank Noyce: (a) 15.

(b) Yes; but the Gradation List does not include the posts of Superintendents of the Railway Mail Service who are on the same list as Superintendents of the Post Office.

(c) Yes.

(d) Government are not prepared to take the action suggested since as has been frequently pointed out such postings are not made solely on communal considerations.

POSTING OF MUSLIM SUPERINTENDENTS TO CERTAIN RAILWAY MAIL SERVICE DIVISIONS.

1671. *Mr. S. C. Mitra (on behalf of Seth Haji Abdoolah Haroon): (a) Is it a fact that the Railway Mail Service "A" and "D" Divisions have always had Hindu Superintendents and that the Muslims have been asking that they should have a Muslim Superintendent? Similarly, are Government aware that the "J" Division had a Hindu Superintendent for years together?

(b) Are Government prepared to post Muslim Superintendents to these Divisions immediately?

The Honourable Sir Frank Noyce: (a) As regards the first part of the question, the facts are not as stated by the Honourable Member nor are Government able to trace any representations from Muslims on the subject.

As regards the second part, during the last 11 years the 'J' Division has been in charge of Hindu Superintendents for six years and of a Muslim Superintendent for five years. It is now in charge of an Anglo-Indian.

(b) No, since as has been frequently explained such postings are not made solely on a communal basis.

APPOINTMENT OF A MUSLIM AS ASSISTANT DIRECTOR IN THE SIND AND BALUCHISTAN POSTAL CIRCLE.

1672. ***Mr. S. C. Mitra** (on behalf of Seth Haji Abdoola Haroon): (a) Is it a fact that the Director and the Assistant Director as also the only two first class Postmasters with the Assistants in the Sind and Baluchistan Circle are all Hindus?

(b) Are Government aware that this has caused great apprehension in the minds of the Muslim subordinates and there is great unrest?

(c) Are Government aware that as matters stand at present there is no chance of a Muslim ever becoming a Director in the Sind and Baluchistan Circle?

(d) If so, are Government prepared to direct that the Assistant Director in Sind and Baluchistan Circle should always be a Muslim?

The Honourable Sir Frank Noyce: (a) Yes.

(b) Government have received some representations on the subject.

(c) No; though it is unlikely for some time yet.

(d) No. I would remind the Honourable Member that such postings are not made solely on communal considerations.

POLICY IN REGARD TO THE APPOINTMENT OF THE MEMBERS OF VARIOUS COMMUNITIES TO THE SUBORDINATE ACCOUNTS SERVICE.

1673. ***Mr. S. C. Mitra** (on behalf of Seth Haji Abdoola Haroon): (a) Will Government be pleased to state their policy in regard to the appointment of the members of the various communities to the Subordinate Accounts Service in the different Accounts and Audit Offices in India with reference to the orders issued in Government of India, Home Department, Memo. No. F.-176/25-Est., dated the 5th February, 1926, regarding the recruitment of members of minority communities?

(b) Is it a fact that in some of the Accounts and Audit Offices in India, clerks belonging to majority communities, some of whom even failed to pass the Subordinate Accounts Service examination previously, have been appointed against permanent vacancies accruing after the issue of the Home Department Memo. of 1926, when passed candidates from minority communities were available?

The Honourable Sir George Schuster: With your permission, Sir, I will deal with questions Nos. 1673 to 1678 together.

Enquiry is being made and complete replies will be laid on the table in due course.

MUSLIM SUPERINTENDENTS IN THE SUBORDINATE ACCOUNTS SERVICE.

†1674. ***Mr. S. C. Mitra** (on behalf of Seth Haji Abdoola Haroon): (a) Is it a fact that either there are no Muslim Subordinate Accounts Service passed Superintendents in most of the Accounts Offices in India or the number of such Superintendents in one or two offices is considerably very small as compared with the total number of sanctioned posts in the offices concerned?

(b) If so, will Government be pleased to state how the vacancies occurring in the cadre of the said service in the various Accounts and Audit Offices in India, since the issue of the orders of the Government of India mentioned in the preceding question, were filled in and also what steps, if any, were taken to appoint Muslims to the vacancies reserved for them in pursuance of the said orders?

(c) What action do the Government of India propose to take to remedy the grave omissions in the past, if any?

DEPARTMENTAL PROMOTIONS TO THE SUBORDINATE ACCOUNTS SERVICE.

†1675. ***Mr. S. C. Mitra** (on behalf of Seth Haji Abdoola Haroon): Are Government aware that appointment to the Subordinate Accounts Service has been declared by the Auditor General to be departmental promotion for the purposes of the orders of the Government of India regarding recruitment of minority communities, and that this has affected adversely the members of the minority communities who have passed the Subordinate Accounts Service examination inasmuch as they are, in consequence of the said decision of the Auditor General, deprived of the preferential treatment allowed by the orders of the Government of India mentioned above?

APPOINTMENTS TO THE POSTS OF DIVISIONAL ACCOUNTANTS.

†1676. ***Mr. S. C. Mitra** (on behalf of Seth Haji Abdoola Haroon): (a) Are Government aware that appointment to the posts of Divisional Accountants (who are also under the control of the Provincial Accountants General) was previously considered as departmental promotion for purposes of the minority community rules, but the Auditor General decided in the year 1930 that the said appointments should not be so considered and that the orders of the Government of India regarding the protection of the interests of minority communities should be observed separately in respect of that cadre?

(b) Will Government kindly state what justification there is for the differential treatment in the case of the Subordinate Accounts Service and the Divisional Accountants cadres so far as the application of minority community rules is concerned?

†For answer to this question, see answer to question No. 1673.

(c) Are the Government of India prepared to direct that appointments to the Subordinate Accounts Service should not be treated as departmental promotions for purposes of the minority community rules?

(d) If not, are Government prepared to issue orders to remain in force for such time as the communal inequalities in respect of the Subordinate Accounts Service in the different Accounts and Audit Offices are not redressed?

DEARTH OF MUSLIM CLERKS IN THE ESTABLISHMENT SECTIONS OF THE ACCOUNTS AND AUDIT OFFICES IN INDIA.

†1677. *Mr. S. C. Mitra (on behalf of Seth Haji Abdoola Haroon): (a) Is it a fact that there is a dearth of Muhammadan clerks in the establishment sections of the Accounts and Audit Offices in India?

(b) Is it a fact that no Muhammadan has ever been allowed an advanced increment in any Accountant General's Office in India? If so, why?

FILLING UP OF VACANCIES IN THE CLERICAL ESTABLISHMENT IN THE OFFICE OF THE ACCOUNTANT GENERAL, UNITED PROVINCES.

†1678. *Mr. S. C. Mitra (on behalf of Seth Haji Abdoola Haroon): How is it proposed to fill up the vacancies in the clerical establishment of the Accountant General's Office, United Provinces, reserved for the members of the minority communities? Are not the members of these communities available from the men retrenched as a result of the amalgamation of Accounts and Audit?

DEALINGS OF PATHAN MONEY-LENDERS WITH THEIR DEBTORS EMPLOYED IN THE IMPERIAL SECRETARIAT.

1679. *Mr. B. N. Mitra: (a) Are Government aware that dealings of Pathan money-lenders with their debtors employed in the offices of the Imperial Secretariat and residing in Government buildings in New Delhi are very objectionable, inasmuch as these Pathans enter such debtors' residences by force, quarrel and molest them on their way to office and back, as also stop debtors in front of the Secretariat building where they wait looking for their debtors?

(b) Is it also a fact that several representations to be protected from harassment of the said nature have been made to the Superintendent of Police by the debtors concerned?

(c) Will Government please state in how many cases inquiries have been made and how many such Pathans have been stopped while entering Government buildings and remaining there or punished and how? If not, why not?

The Honourable Mr. H. G. Halg: I have made enquiries from the Delhi Administration and will lay the reply on the table in due course.

APPOINTMENT OF A MUSLIM AS SUPERINTENDENT OF THE OFFICE OF THE POSTMASTER GENERAL, PUNJAB AND NORTH-WEST FRONTIER CIRCLE.

1680. *Mr. S. C. Mitra (on behalf of Mr. M. Maswood Ahmad): (a) Is it a fact that the appointment of Superintendent of the office of the

†For answer to this question, see answer to question No. 1673.

Postmaster General, Punjab and North-West Frontier Circle, has been held exclusively by Hindus for the last 25 years and, according to the existing procedure for promotion, there is no likelihood of this post being held by a Moslem for a long time to come?

(b) If the reply to part (a) above be in the affirmative, will Government be pleased to state what action, if any, they propose to take to appoint a member of the Muslim community in this post?

The Honourable Sir Frank Noyce: (a) and (b). The Honourable Member is referred to the reply given to parts (d) and (f) of Mr. Shaikh Fazal Haq Piracha's starred question No. 515 in this House on the 17th February, 1931.

APPOINTMENT OF MUSLIMS AS HEAD CLERKS IN THE OFFICE OF THE POSTMASTER GENERAL, PUNJAB AND NORTH-WEST FRONTIER CIRCLE.

1681. *Mr. S. C. Mitra (on behalf of Mr. M. Maswood Ahmad): (a) Is it a fact that 12 out of the 13 appointments of Head Clerks in the office of the Postmaster General, Punjab and North-West Frontier Circle, are held by non-Muslims of one community?

(b) Are Government aware that according to the seniority list there is absolutely no chance for a Muslim of the office of Postmaster General, Punjab and North-West Frontier Circle being promoted as Head Clerk of the same office?

(c) Is it a fact that many officials belonging to the Circle were imported to the said circle office? Is it also a fact that many officials were transferred from the said circle office to the circle?

(d) Are Government prepared to order that the selection grade appointments in the Circle and Circle Offices be made interchangeable instead of leaving the matter to the will of the Circle officers in order to remove communal inequalities?

The Honourable Sir Frank Noyce: (a) The Honourable Member is referred to the reply given to part (a) of Shaikh Sadiq Hasan's starred question No. 888 in this House on the 7th November.

(b) and (d). The Honourable Member is referred to the replies given to parts (c) and (d) of his starred question No. 1448 in this House on the 28th of last month.

(c) Government have no information.

APPOINTMENT OF MEMBERS OF DIFFERENT COMMUNITIES AS SUPERINTENDENTS OF POST OFFICES AND THEIR HEAD CLERKS IN THE PUNJAB POSTAL CIRCLE.

1682. *Mr. S. C. Mitra (on behalf of Mr. M. Maswood Ahmad): (a) Is it a fact that the Postmaster General, Punjab, has issued a standing order to the effect that in the Divisions, Superintendents of Post Offices and their Head Clerks should belong to different communities?

(b) If the reply to part (a) above be in the affirmative, will Government be pleased to state the reasons for which the above procedure is not followed in the Punjab and North-West Frontier Circle? Is it a fact that the Superintendent and the appointment clerk in the said Circle are both of one community for the last several years?

(c) Is it a fact that the appointment clerk in the circle office is directly responsible to the Office Superintendent and not to the Head Clerk of the branch?

(d) If the reply to part (c) above be in the affirmative, are Government prepared to order that the appointment clerk and the Office Superintendent should not be of the same community?

Mr. T. Ryan: (a) to (d). Government have no information. The matter is within the competence of the Postmaster General, Punjab and North-West Frontier Circle to whom a copy of the question is being sent for such action as he may consider necessary. As has already been explained to the Honourable Member, the term 'appointment clerk' is a misnomer, and will be suitably altered.

LEAKAGE OF IMPORTANT INFORMATION FROM THE PUNJAB AND NORTH-WEST FRONTIER POSTAL CIRCLE OFFICE.

1683. ***Mr. M. Maswood Ahmad:** (a) Is it a fact that due to leakage of important information from the Punjab and North-West Frontier Circle Office, the Postmaster General had to issue warnings on several occasions?

(b) Is it a fact that quite recently a clerk of the said Circle Office was caught red-handed while intercepting the official document and the case is under investigation?

Mr. T. Ryan: (a) and (b). Government have no information. The matter is within the competence of the Postmaster General.

RAILWAY MAIL SERVICE DIVISIONS IN THE PUNJAB AND NORTH-WEST FRONTIER POSTAL CIRCLE.

1684. ***Mr. S. C. Mitra** (on behalf of Mr. M. Maswood Ahmad): Is it a fact that the charge of both Railway Mail Service Divisions in the Punjab and North-West Frontier Circle is held by non-Muslim Superintendents?

The Honourable Sir Frank Noyce: Yes.

ORDERLY PEONS OF THE SUPERINTENDENTS OF POST OFFICES IN THE PUNJAB AND NORTH-WEST FRONTIER POSTAL CIRCLE.

1685. ***Mr. S. C. Mitra** (on behalf of Mr. M. Maswood Ahmad): (a) Is it a fact that according to the Punjab Postmaster General's Orders the orderly peons of the Superintendents should be permanent employees and that they should remain where they are employed after the transfer of the Superintendent?

(b) Is it a fact that the Superintendents of Post Offices are forbidden to appoint their private servants as orderly peons and to take them from Division to Division on their transfers?

(c) Is it a fact that this order was violated by the late Superintendent of Post Offices, Ludhiana Division, Punjab on more than one occasion?

Mr. T. Ryan: (a) Yes, according to the Director General's orders. (b) Yes.

(c) Government have no information. A copy of the question is being sent to the Postmaster General, Punjab and North-West Frontier, for such action as he may consider necessary.

QUESTIONS AND ANSWERS.

RETRENCHMENT IN THE PUNJAB POSTAL CIRCLE.

1686. ***Mr. S. C. Mitra** (on behalf of Mr. M. Maswood Ahmad): (a) Is it a fact that the Government of India issued instructions to the effect that, while retrenching the staff, due regard should be given to the fact that the ratio of each community as it stood prior to reduction is maintained?

(b) Is it a fact that the ratio of Muslims and non-Muslims before and after retrenchment in the Punjab Postal Circle in the grades of Rs. 250—350 and 160—250, as given below is correct? If not, will Government supply correct figures?

Grade, Rs. 250—350.

	Hindus.	Muslims.	Sikhs.	Christians.
Prior to reduction (percentage)	4 (28.6%)	5 (35.7%)	3 (21.4%)	2 (14.3%)
After reduction	7 (46.6%)	4 (26.6%)	1 (8.6%)	3 (20%)

Grade, Rs. 160—250.

	131 (62%)	60 (28%)	14 (7%)	6 (3%)
Prior to reduction (percentage)				
After reduction	139 (66%)	52 (24%)	13 (7%)	6 (3%)

(c) If the reply to part (b) above be in the affirmative, will Government be pleased to state the reasons for infringing the Government's Orders on the subject, and the action they propose to take to redress the grievances of the communities affected?

The Honourable Sir Frank Noyce: (a) The Honourable Member is referred to the reply given to part (a) of Shaikh Fazal Haq Piracha's starred question No. 1066 in this House on the 9th November, 1932.

(b) and (c). Government are not in a position to check these figures; but even if the position as regards communal ratios in these two clerical selection grades is as stated by the Honourable Member, this would not necessarily mean that the orders of Government referred to in part (a) of the question have been infringed, since, for the purposes of retrenchment, the selection and non-selection grades in the postal clerical cadre are being taken together. There has actually been no decline in the ratio of Muslims in the postal clerical cadre as a whole, as a result of retrenchments, as already explained in reply to part (c) of Shaikh Fazal Haq Piracha's question just referred to.

RETRENCHMENT IN THE PUNJAB POSTAL CIRCLE.

1687. ***Mr. S. C. Mitra** (on behalf of Mr. M. Maswood Ahmad): (a) Is it a fact that out of 46 selection grade officials retrenched in the Punjab Postal Circle, as many as 23 officials (twenty Hindus and three Muslims) were already on extension of service?

(b) Is it a fact that out of the remaining 23 retrenched officials, who were not yet superannuated, as many as sixteen Muslims and seven non-Muslims have been retrenched?

(c) If the reply to parts (a) and (b) above be in the affirmative, will Government be pleased to state what action they propose to take to right the wrong done to the Muslims?

The Honourable Sir Frank Noyce: (a) and (b). Enquiries are being made and a reply will be laid on the table of the House in due course.

(c) None, the retrenchment rules have been impartially applied and no community has been 'wronged' in the process. In this connection the Honourable Member's attention is invited to the reply which I have just given to his question No. 1686.

MEMBERS OF THE DELHI ROYAL FAMILY IN INDIA.

1688. ***Mr. S. C. Mitra** (on behalf of Mr. M. Maswood Ahmad): (a) Will Government please state the number of the members of the Delhi royal family in this country and also the districts in which they live?

(b) What is the number of those who are drawing pensions or charitable allowances?

(c) Have Government made any arrangement for their education?

(d) Have they ever been represented by a nominated or elected representative in the Legislative Assembly?

Mr. H. A. F. Metcalfe: With your permission, Sir, I propose to answer questions Nos. 1688 and 1689 together. The information is being collected and will be laid on the table in due course.

MEMORIAL OF ANJUMAN KHANDAN-I-JEHANDAR SHAH, BENARES, TO THE GOVERNMENT OF INDIA.

†1689. ***Mr. S. C. Mitra** (on behalf of Mr. M. Maswood Ahmad): (a) Have the Anjuman Khandan-i-Jehandar Shah, Benares, forwarded any memorial or resolutions to the Government of India?

(b) What action, if any, did Government take?

(c) What are their demands? How far are Government prepared to meet them?

SHRADHANAND MODEL BASTI FOR DEPRESSED CLASSES IN PAHARGANJ, DELHI.

1690. ***Rao Bahadur M. C. Rajah:** (a) Are Government aware:

(i) that there is a locality called the Shradhanand Model Basti for the Depressed Classes in Paharganj, Delhi;

(ii) that this place has been set apart by the Chief Commissioner, Delhi, for the Depressed Classes;

(iii) that this area belongs to the Nazul Department;

(iv) that there are no street lights, water taps and other sanitary arrangements in this locality and the Depressed Class inhabitants of the locality who have been living there since 1929, find it extremely difficult to get water even for drinking purposes;

†For answer to this question, see answer to question No. 1688.

(v) that for want of drains the water flowing from the houses, as also rain water, collects in low surfaces of the locality and the health of the inhabitants is always threatened by malaria which may spread there at any time and also spread to the adjoining localities;

(vi) that in spite of the repeated requests of the inhabitants who have also shown the dirty condition of the locality to the Health Officer, Delhi Municipality, no action has so far been taken to redress the grievances of the inhabitants, and even now night soil of the adjoining localities is dumped around the houses of this locality and, on account of this, the houses are always full of bad smell and the entire atmosphere remains unhealthy;

(vii) that the Municipal Committee do not take any pains in this connection because they consider the land a charge of the Nazul Department and the Nazul Department ignores it because it does not think itself responsible for the health of the residents?

(b) Are Government prepared to take early action to fix on one of these bodies the responsibility to complete the necessary arrangements at an early date with a view to relieving the inhabitants from the difficulties stated above?

Mr. G. S. Bajpai: With your permission, Sir, I will answer questions 1690 and 1691 together.

Enquiries have been made and the result will be communicated to the House in due course.

DELAY IN THE DISPOSAL OF APPLICATIONS OF DEPRESSED CLASSES BY THE NAZUL DEPARTMENT, DELHI.

†1691. ***Rao Bahadur M. C. Rajah:** (a) Are Government aware that the Nazul Department of Delhi delays the applications of the persons belonging to the Depressed Classes who want plots of land to build houses, even after the necessary orders have been passed by the Deputy Commissioner, Delhi?

(b) Are Government prepared to see that such applications are disposed of expeditiously?

WORK OF CASH RECEIPTS AND DISBURSEMENTS ON THE STATE-MANAGED RAILWAYS.

1692. ***Mr. S. C. Mitra** (on behalf of Sardar Sant Singh): (a) Will Government please state the names of the State-managed Railways and the offices connected therewith on which the work of cash receipts and disbursements is done—

(i) under State management, and

(ii) through contractors?

(b) Will Government please state the reasons for the disparity of the arrangements on the different State-managed Railways and their offices

†For answer to this question, see answer to question No. 1690.

and have Government considered the desirability of having a uniform system for getting the cash work done either through contractors on all the said Railways and their offices, or under its own management, whichever may be really economical from the point of view of the taxpayers?

Mr. P. R. Rau: (a) The work is entrusted to a contractor on the North Western Railway; on the other State-managed Railways, it is carried out departmentally.

(b) Government do not consider that there is any necessity for uniformity in this matter, nor that one system can be said to be *per se* better than the other. The cash contract system has been working satisfactorily and cheaply on the North Western Railway for a long time but so has the departmental system on the other railway which has been under State-management for an equally long period, *viz.*, the Eastern Bengal Railway. An attempt was recently made to introduce the cash contract system on the East Indian Railway and tenders were called for, but no satisfactory arrangements could be made and the attempt was given up. Other methods of reducing expenditure in connection with cash and pay work on this and the Great Indian Peninsula Railway are at present under consideration.

TENDERS FOR THE CONTRACT OF CASH WORK OF THE RAILWAY CLEARING ACCOUNTS OFFICE, DELHI.

1693. ***Mr. S. C. Mitra** (on behalf of Sardar Sant Singh): (a) Is it a fact that in giving cash contracts on State-managed Railways, tenders are invariably not called for? If so, are Government prepared to consider the desirability of introducing the procedure of calling for tenders?

(b) Are Government aware that there are bankers of good repute in Delhi who are treasurers to Government treasuries, banks, etc.? If so, will Government please state if tenders will be called for for the contract of cash work of the Railway Clearing Accounts Office? Is it proposed to be given to the Head Cashier of a certain Railway?

Mr. P. R. Rau: (a) The answer to the first part of the question is in the negative and the second part does not arise.

(b) The answer to the first part of the question is in the affirmative. The cash work of the Railway Clearing Accounts Office is so small that it has been considered unnecessary to call for tenders for it. It is proposed to entrust the work to the Cashier of the North Western Railway at a small additional remuneration of Rs. 175 per mensem.

COMPLAINTS OF THE PUBLIC OF DELHI CITY ABOUT THE CORRUPTION IN CERTAIN DEPARTMENTS.

1694. ***Mr. N. R. Gunjal:** (a) Are Government aware of the general complaint of the public of Delhi City about the corruption in most of the departments on account of nearly all the responsible posts being in the hands of the same persons for the last so many years? If not, do Government propose to enquire into the matter?

(b) Will Government be pleased to state whether there is a general rule in practice in every province in India to transfer an officer after

every three years? If so, why are the officers of Delhi not transferred for years and years?

(c) Will Government be pleased to state whether there is a clear rule that an officer cannot be posted in his residential place? If so, why are the responsible posts given to persons who are residents of Delhi?

The Honourable Mr. H. G. Haig: With your permission, Sir, I shall answer questions Nos. 1694 and 1695 together. I am making inquiries and will lay a reply on the table in due course.

RESIDENCE AND PERIOD OF STAY IN DELHI OF CERTAIN OFFICIALS OF THE DELHI PROVINCE.

†1695. ***Mr. N. R. Gunjal:** (a) Will Government be pleased to place a statement on the table showing the residence and period of stay in Delhi of heads, assistants, sub-assistants and superintendents of the following departments:—1. Delhi Public Works Department, 2. Delhi Tahsil, 3. Delhi Nazul, 4. Delhi Industrial Surveyor, 5. Delhi Excise and 6. Delhi Deputy Commissioner's Office?

(b) Do Government propose to send back to the Punjab or elsewhere as soon as possible persons whose usual tenure of appointment is over and also those who are residents of Delhi to remove the public grievances; if not, why not?

SHORT NOTICE QUESTION AND ANSWER.

STRIKE ON THE MADRAS AND SOUTHERN MAHRATTA RAILWAY.

Mr. G. Morgan: With reference to the reply given by the Honourable Member for Railways to Mr. Maswood Ahmad's short notice question on the 24th November, 1932, will Government be pleased to indicate their attitude in regard to the question of the grant of pay to strikers during the period they are on strike?

The Honourable Sir Joseph Bhoré: Government are definitely opposed to the grant of pay to strikers during the period they are on strike.

Mr. C. S. Ranga Iyer: Will Government be pleased to state what was the reason for the Madras and Southern Mahratta Railway strike?

The Honourable Sir Joseph Bhoré: Well, Sir, I made a rather complete statement in regard to that a few days ago and I would refer my Honourable friend to the statement which I then made.

Mr. C. S. Ranga Iyer: Was it not a fact that the strike was a result of panic?

The Honourable Sir Joseph Bhoré: On whose part?

Mr. C. S. Ranga Iyer: On the part of the employees, but panic arising from panicky rumours and panicky situation created by the railway administration from time to time.

†For answer to this question, see answer to question No. 1694.

The Honourable Sir Joseph Bhoré: I should say not.

Mr. C. S. Ranga Iyer: Is it not a fact that while every railway administration attempted to reduce the surplus figures, the Madras and Southern Mahratta Railway administration inflated its figures in the course of a few weeks?

The Honourable Sir Joseph Bhoré: It is absolutely unfounded.

Mr. C. S. Ranga Iyer: Is it not a fact that the Agent admitted his mistake in regard to the inflation of the figures in regard to the Perambur workshops and also the mistake of his predecessor and the Chief Mechanical Engineer?

The Honourable Sir Joseph Bhoré: I think he certainly admitted that he made a mistake.

Mr. C. S. Ranga Iyer: Is it not a fact that on the 31st October the Agent of the Madras and Southern Mahratta Railway stated that the surplus stated by him before the strike, namely, 474 was wrong and that it should be increased to 700?

The Honourable Sir Joseph Bhoré: That I think is probably correct but I must have notice of the question.

Mr. C. S. Ranga Iyer: Was it not a fact that the Union asked for supply of information about adjustment of these surpluses and a circular was issued on the 23rd September, that 474 was the surplus?

The Honourable Sir Joseph Bhoré: I cannot state the exact date or contents of those circulars.

Mr. C. S. Ranga Iyer: Is it not a fact that on the 1st November, the Agent wrote to the Union 12 days after the strike that the surplus was about 700?

The Honourable Sir Joseph Bhoré: If my Honourable friend will put down these questions, I shall obtain the necessary information and supply him with it.

Mr. C. S. Ranga Iyer: Has the attention of the Government been drawn to the Resolution passed by the Madras Corporation inviting the Government to take steps to settle the strike and the statements made by Sir Sivaswamy Aiyar, Right Honourable Srinivasa Sastri, Sir K. V. Reddi and others?

The Honourable Sir Joseph Bhoré: I have seen the statements referred to by my Honourable friend.

Mr. C. S. Ranga Iyer: Are Government aware that because of the panic and the conflicting statements made by the Agent from time to time the employees got panic-struck and, therefore, they went on strike?

The Honourable Sir Joseph Bhoré: It is possible that the employees were panic-stricken. I have no information as to that.

Mr. C. S. Ranga Iyer: In these circumstances will Government consider the advisability of giving pay to those employees who went on strike when they are reinstated?

The Honourable Sir Joseph Bhoré: Most certainly not.

Mr. C. S. Ranga Iyer: Was there not a difference of 12 days between the one statement made by the Agent and the other statement inflating the figures, thus causing the extension of the strike and increasing the panic?

The Honourable Sir Joseph Bhoré: I cannot give my Honourable friend precise information on that point.

Mr. C. S. Ranga Iyer: Will Government consider the advisability of giving them part payment, if not full payment?

The Honourable Sir Joseph Bhoré: No, Sir, in no circumstances.

Mr. C. S. Ranga Iyer: Will Government consider the advisability of taking in every one who has been sent away?

The Honourable Sir Joseph Bhoré: That is a matter for the Administration to consider.

Mr. C. S. Ranga Iyer: Will Government recommend to the Agent the advisability of taking back those who have been sent back?

The Honourable Sir Joseph Bhoré: No, Sir.

Mr. C. S. Ranga Iyer: Why not?

The Honourable Sir Joseph Bhoré: Because Government are not in a position to dictate what action should be taken in this matter.

Mr. C. S. Ranga Iyer: Have any negotiations been carried on by the Government with the Union and what stage have those negotiations reached?

The Honourable Sir Joseph Bhoré: No negotiations as far as I am aware with any Union.

Mr. C. S. Ranga Iyer: Is it not a fact that the Whitley Commission recommended that in certain circumstances the Government should set up an arbitration Board to inquire and settle matters like this?

The Honourable Sir Joseph Bhoré: That may be so, Sir, but I must refer to the Whitley Commission's report before I commit myself.

Mr. K. Ahmed: Is it not a fact, Sir, that under the Trade Dispute Act, passed by this Assembly, the Union has a right to ask the Government to go into the matter and that the Government are bound to make inquiries into it under the provision of that enactment?

The Honourable Sir Joseph Bhoré: I do not think it is correct to say that the Government are bound to make inquiries. The Union is certainly entitled to ask the Government to make inquiries.

Mr. K. Ahmed: Have Government got any petition or memorial or will they *suo motu* set up an inquiry under the circumstances?

The Honourable Sir Joseph Bhoré: I must have notice of that question.

Mr. K. Ahmed: That is the criterion in view of the fact . . .

Mr. President (The Honourable Sir Thrahim Rahimtoola): Will the Honourable Member put a supplementary question if he wishes to do so?

Mr. K. Ahmed: Do Government propose to set up an inquiry under the circumstances?

The Honourable Sir Joseph Bhoré: Not at present.

Mr. C. S. Ranga Iyer: Is it not a fact that before the strike, the Madras and Southern Mahratta Railway Employees Union asked for a Conciliation Board and the Railway administration refused to join in the application?

The Honourable Sir Joseph Bhoré: That is a point on which I must ask for notice.

Mr. C. S. Ranga Iyer: The Honourable Member may take it from me that it is a fact. Were any efforts made by the Government of India to avert the strike by meeting the parties concerned and trying to bring about a settlement?

The Honourable Sir Joseph Bhoré: That was a matter for the Agent to settle with the strikers. It is a Company-managed administration and Government were not prepared to interfere at that stage.

Mr. C. S. Ranga Iyer: Is the Government aware that the Agent has throughout taken an intransigent attitude, changing his facts and figures from time to time?

The Honourable Sir Joseph Bhoré: I cannot admit that the Agent has taken an intransigent attitude in the matter.

Mr. C. S. Ranga Iyer: Will Government be pleased to find out from the Agent why he was unwilling to join in the application for a Conciliation Board?

The Honourable Sir Joseph Bhoré: That is best known to the Agent himself.

Mr. C. S. Ranga Iyer: Will Government ascertain from the Agent why he assumed that attitude of intransigence?

The Honourable Sir Joseph Bhoré: No, Sir.

Mr. C. S. Ranga Iyer: Why not?

The Honourable Sir Joseph Bhoré: Because I do not propose to do so.

Mr. C. S. Ranga Iyer: Are Government aware that because of this policy of intransigence, the Agent caused the strike and thereby caused intense suffering to the employees?

The Honourable Sir Joseph Bhoré: I do not admit the suggestion contained in my Honourable friend's question.

Mr. C. S. Ranga Iyer: Will Government be pleased to make a full statement on this subject at their earliest convenience?

The Honourable Sir Joseph Bhoré: I have made a very full statement a few days ago and I suggest that my Honourable friend should read that statement.

Mr. C. S. Ranga Iyer: Will Government consider the advisability of taking conciliatory steps to satisfy those who have gone on strike?

The Honourable Sir Joseph Bhoré: It is open to the strikers to approach the Agent and I have no doubt that if they do so he will consider any suggestions they may have to make.

Mr. C. S. Ranga Iyer: Are Government aware that there is widespread sympathy with the strikers in Madras not only among the people but also amongst the railway men?

The Honourable Sir Joseph Bhoré: That may be so but sometimes sympathy is misplaced.

Mr. C. S. Ranga Iyer: Can Government deny that there was an inflation of surplus figures by the Agent?

The Honourable Sir Joseph Bhoré: There was no question of inflation whatsoever. The Agent made a mistake in his calculation and the moment he discovered it he informed the Union of the facts.

Mr. C. S. Ranga Iyer: Are Government aware that this miscalculation on the part of the Agent has created a certain amount of panic among the employees?

The Honourable Sir Joseph Bhoré: That I cannot say, Sir.

Mr. C. S. Ranga Iyer: Will Government try to ascertain whether the panic arose from this miscalculation, and how far this miscalculation was responsible for the strike?

The Honourable Sir Joseph Bhoré: I do not think, Sir, that that enters into the question at all.

Mr. C. S. Ranga Iyer: Will Government be pleased to take it from me that that very much entered into the question and that leads us to the question of pay of those who went on strike?

Mr. K. P. Thampan: Do I understand that the strike is practically over now?

The Honourable Sir Joseph Bhoré: No. I have no reason to believe that it is over.

Mr. K. P. Thampan: Is the strike going to be extended to other branches of the Railway?

The Honourable Sir Joseph Bhoré: So far the strike is confined to the workshops. It has not extended at all to the line.

Mr. K. P. Thampan: I remember to have read in the papers two days ago that labourers of other Departments are also thinking of going on strike?

The Honourable Sir Joseph Bhoré: I have also read that, Sir.

Mr. O. S. Ranga Iyer: Has the attention of the Government been drawn to the following circular issued by the Chief Mechanical Engineer under the Agent's instructions on the 19th September:

"In order that the employees in the Perambur mechanical workshops may understand the present position regarding surplus men, I am authorised to publish the following information. At present there are 160 permanent men of the workshops who are transferred to the Re-Modelling Works."

The Honourable Sir Joseph Bhoré: What does the Honourable Member want to know in regard to that circular? I have no doubt that some such circular as he is quoting from was issued.

Mr. O. S. Ranga Iyer: I shall put it in the form of a question:

"Is the Government aware that the original idea was that the 110 men suddenly turned into 160 on the 19th September were to be sent away after the work of Re-Modelling Works was finished?"

The Honourable Sir Joseph Bhoré: My Honourable friend is merely labouring the same point in repeating his question. I have admitted that the Agent made a miscalculation, and the moment he discovered his mistake, he informed the Union of that mistake.

Mr. O. S. Ranga Iyer: May I draw the attention of the Government to the fact that it was not one miscalculation, but a series of miscalculations, a sort of ascending gradation of step by step miscalculation, until from nil the figures mounted up to 700, creating a continuous panic among the employees and finally resulting in a strike, owing to a policy which could easily have been avoided. Are Government aware of that?

The Honourable Sir Joseph Bhoré: I am aware of the fact that the figures were never nil, Sir.

Mr. O. S. Ranga Iyer: They were certainly very much below 100. Can Government deny that statement?

The Honourable Sir Joseph Bhoré: I do not know exactly what the figures were, but in my recollection I think the first figures were 110.

Mr. O. S. Ranga Iyer: Lastly, Sir, I would ask the Government whether they would be pleased to take into consideration the circumstances that led up to the strike and deal with the strikers generously.

The Honourable Sir Joseph Bhoré: It is not a matter for the Government at this stage. It is a matter for the Local Administration, Sir.

Mr. O. S. Ranga Iyer: May I request the Government to advise the Local Administration on those lines?

The Honourable Sir Joseph Bhoré: The matter is receiving their very careful attention from day to day.

STATEMENTS LAID ON THE TABLE.

The Honourable Sir George Schuster (Finance Member): Sir, I lay on the table the information promised in reply to starred questions Nos. 1325, 1328 and 1329 to 1336 asked by Mr. Gays Prasad Singh on the 21st November, 1932.

PRINTING OF TEN-RUPEE NOTES IN THE CURRENCY NOTE PRESS, NASIK.

*1325. (a) The figures required by the Honourable Member are not readily available, but I presume the figures given below will provide him with the information he desires. The numbers of forged ten-rupee notes received by the Intelligence Bureau from Currency Offices in March, April and May, 1928 were 903 and 523 and 878 respectively, against 187 in April, 1927. In April, 1928, the forgeries of one series were detected in 51 places covering practically the whole of India and Burma. The printing of ten-rupee notes of the old form was begun in the Currency Note Press in April, 1928. The change of design was decided on in July, 1928.

(b) One Assistant Supervisor (Mr. Critchell) was removed from the probationary appointment he was holding on the Control side and reverted to a daily paid job on the technical side. He subsequently showed himself fitted (still on the technical side) for appointment as Junior Supervisor on the rate of pay mentioned in the question. The probationary Chief Supervisor was also reverted from the Control to the technical side where he had received his previous training. Mr. Critchell is connected by his brother's marriage to Mr. Hildreth. The fire resulted from the careless throwing away of a match, used to illuminate a dark place on a machine, without previously extinguishing it. The damage was trivial and the perpetrator was merely warned.

(c) The star watermarked paper was not used for the new design as it was considered advisable for further protection to adopt a watermark portrait of His Majesty.

AMENITIES IN EUROPEAN AND INDIAN STYLE QUARTERS FOR THE STAFF OF THE CURRENCY NOTE PRESS, NASIK.

*1326. (a) Mr. Kapur, Mr. Dutta Gupta and Mr. Mascarenhas live in European style quarters. Such quarters were not offered to those living in Indian style and the question of refusal did not therefore arise. The answer to the rest of the question is in the negative.

(b) The European style quarters are fitted with electric fans and English style bathrooms, lavatories and kitchens. The Indian style quarters have Indian style lavatories, washing places and kitchens and compounds completely enclosed by walls.

and no electric fans. The free supply of water to various styles of quarters is as follows :

European style quarters.

Classes I and II	6,000 gallons.
Class III	1,500 gallons.

Indian style quarters.

Class I	3,000 gallons.
Class II	2,000 gallons.
Classes III and IV. All their requirements.	

The difference between the free allowances for European and Indian quarters is due to the greater consumption of water in the English style of bathing.

SHORTAGE OF CURRENCY NOTES AT NASIK.

*1328. (1) One note of Rs. 100. Mr. Ganguli and Mr. Ghose were in charge; both of them have since been retrenched.

(2) One note of Rs. 5 and two notes of Rs. 10. The responsibility could not be fixed on any individual. The probabilities are that the notes were not stolen but were destroyed inside the Press with a view to making trouble.

CASES OF THEFT OF CURRENCY NOTES REPORTED TO THE MAGISTERIAL COURTS AT NASIK.

*1329. (a) No such case is known, nor has any such judgment been received by the Master, Security Printing.

(b) Thefts are not reported to magisterial courts.

PREFERENTIAL TREATMENT IN THE DISCHARGE OF AN EMPLOYEE OF THE CURRENCY NOTE PRESS, NASIK.

*1330. (a) As stated in reply to question No. 1328 the responsibility for the loss of Rs. 5 currency note sheets could not be fixed on any particular individual. Mr. Patel has proved himself a more useful officer than Mr. Mishra and is therefore retained.

(b) Yes.

ALLEGATIONS AGAINST THE MASTER, SECURITY PRINTING INDIA, NASIK.

*1331. (a) The incident referred to occurred in private life outside the Press. On investigation it was found that both parties were in the wrong and they were duly admonished by the Master. No weight was attached to this incident when deciding that Mr. Mishra should be retrenched.

(b) The matter was of such a trivial nature that Government do not think that any useful purpose will be served by placing the papers on the table of the House.

(c) No. As stated above, both parties were verbally admonished by the Master, Security Printing. It is not a fact that the attitude of the Master is always anti-Indian.

(d) No.

APPOINTMENT OF ADYA GAUD BRAHMIN AS ASSISTANT SUPERVISORS, CURRENCY NOTE PRESS, NASIK.

*1332. (a) Candidates who in the opinion of the Master appeared most suitable were appointed and at the time of retrenchment the most efficient were retained.

(b) None of them is either a relation or is closely connected with the Chief Supervisor, Control, who does not hail from Ratnagiri.

(c) Beyond the fact that Mr. G. V. Desai is a relation of Mr. Topiwalla who is known to the Chief Supervisor, there is no truth in any of the suggestions in the question.

(d) The Chief Supervisor, Control, was transferred from the post of Bullion Keeper, Bombay Mint, on the 10th September, 1928. Three Adya Gaud Brahmins of the Ratnagiri district have been appointed since that date.

(e) No.

(f) Every endeavour was made to equalise the representation of various communities, castes and creeds from among those whose qualifications appeared suitable.

(g) No.

CLAIMS OF RETRENCHED SUPERVISORS FOR VACANCIES OCCURRING IN THE CURRENCY NOTE PRESS, NASIK.

*1333. The claims of those with satisfactory service will certainly be favourably considered and they were so informed at the time of their discharge.

INDIANISATION IN THE NASIK PRESSES.

*1334. (a) Owing to a decrease in the demand for the manufactures of the Press a number of posts had to be retrenched and in doing so the proportion of Europeans to Indians has been diminished by dispensing with services of some of the former. When the present depression ceases and the posts now retrenched are required, they will be filled by Indians. Two Indians have been engaged on probation for special training for superior posts and are shaping well.

(b) As soon as suitable Indians are available. As stated above, attempts are being made to train Indians for superior posts in the Press.

RETRENCHMENT IN THE CURRENCY NOTE PRESS, NASIK.

*1335. The selection for retrenchment was made by a Board consisting of the Master and Head of the Branch concerned in each case.

ASSESSED RENTS PAID BY EUROPEANS AND ANGLO-INDIANS FOR THEIR QUARTERS AT NASIK.

*1336. (a), (b) and (c). Europeans and Anglo-Indians paying rent under rule are :

	Rs.	A.	P.
Col. Sir George Willis	387	8	0
Lt.-Col. W. E. Perry	247	8	0
Mr. Cackett	128	0	0
„ Bachelor	95	0	0
„ Jones (T. E.)	83	0	0
„ Macey	66	0	0
„ Corby	35	0	0
„ Johnson	52	0	0
„ Weir	43	0	0
„ Griffin	22	0	0
„ Ley	22	0	0
„ Critchell	19	0	0
Miss Griffin	13	8	0

(d) The standard rent of the quarters occupied by the Master is Rs. 560. Since all these quarters were built at a time when building costs were excessive it was not possible to provide accommodation suitable to the posts at a cost which would result in the standard rent not exceeding the maximum chargeable, viz., 10 per cent. of emoluments.

The Honourable Mr. H. G. Haig (Home Member): Sir, I lay on the table the information promised in reply to starred question No. 1600 asked by Mr. Jagan Nath Aggarwal on the 6th December, 1932.

MEETINGS HELD IN LAHORE IN CONNECTION WITH THE REMOVAL OF UNTOUCHABILITY.

*1600. The individuals named were arrested. The question whether the meetings attended by them were religious or political meetings is now sub judice.

The Honourable Sir Frank Noyce (Member for Industries and Labour): Sir, I lay on the table the information promised in reply to part (b) of starred question No. 1876 asked by Seth Haji Abdoola Haroon on the 22nd November, 1932.

NON-RECRUITMENT OF MUSLIM CLERKS IN THE OFFICE OF THE DIVISIONAL ENGINEER, TELEGRAPHS, NEW DELHI.

*1876.

Table showing the number of Muslims and Non-Muslims recruited after 1925 in the different Postal Circles.

	Muslims.	Non-Muslims.
Bengal and Assam Circle	..	29
Bihar and Orissa Circle	2	8
Bombay Circle	1	10
Burma Circle	4	25
Central Circle	1	8
Madras Circle	..	14
Punjab and N.-W. F. Circle	8	30
Sind and Baluchistan Circle	3	7
United Provinces Circle	8	20

N.B.—It is mentioned for information that a Telegraph Engineering Divisional office does not form a separate unit for purposes of recruitment. Until recently the recruitment was conducted on a circle basis. While now the division as a whole, including the Divisional office, forms such a unit.

Mr. T. Ryan (Director General of Posts and Telegraphs): Sir, I lay on the table the information promised in reply to supplementary questions to starred question No. 1072 asked by Shaikh Fazal Haq Piracha on the 9th November, 1932.

STOPPAGE OF RECRUITMENT OF MEN OF THE PREPONDERANT COMMUNITY IN THE POSTAL DEPARTMENT.

*1072. Mr. Booth, as Postmaster General, Punjab and North-West Frontier Circle, did not issue any general orders affecting the whole circle but issued special orders affecting particular postal divisions and first class post offices in the circle, on various occasions from 1922-26. Examples of such orders are the following:

1. Order dated 10th February, 1923, concerning the Amritsar (Postal) Division.—“The recruitment of Hindus should now be stopped until there has been an adequate increase in the number of Mohammadans and Sikhs, particularly the latter.”
2. Order dated March, 1923, concerning the Lahore (Postal) Division.—“In future Hindus are to be recruited only in 4th vacancies as they occur.”
3. Order dated 1st October, 1923, concerning the Delhi Head Office.—“No more Hindus are to be admitted to the clerical staff of your office, except graduates, until further orders.”

It was made clear by an order of September, 1924, that in most of the cases in question the stoppage of recruitment of Hindus was intended to apply to candidates other than graduates and undergraduates.

The special orders referred to above were issued by the Postmaster General with a view to securing the object desired by the Government of India, viz., prevention of the preponderance of any one community in the service. They were superseded however by general orders in conformity with the instructions issued by the Government of India in the Home Department for the redress of communal inequalities.

Mr. G. S. Bajpai (Secretary, Department of Education, Health and Lands): Sir, I lay on the table the information promised in reply to starred question No. 570 asked by Sardar Sant Singh on the 21st September, 1932.

FREE MEDICAL ATTENDANCE AND DISPENSARIES FOR THE SECRETARIAT STAFF AT SUMMER HILL.

*570. Enquiries made show that the Medical Officer of the Summer Hill dispensary did not refuse to attend on Indian clerks. He has now been instructed to afford medical aid to the civilian clerks of the Government of India Secretariat and Attached Offices residing in Government quarters at Summer Hill and their families and to provide them free of charge with such medicines as are required and are available in the Dispensary. This arrangement has been sanctioned provisionally for one year. The usual fees will be payable for consultation, professional advice and care in the case of families.

Mr. P. R. Rau (Financial Commissioner, Railways): Sir, I lay on the table:

- (i) the information promised in reply to starred question No. 1230 asked by Mr. Nabakumar Sing Dudhoria on the 16th November, 1932.

- (ii) the information promised in reply to unstarred question No. 125 asked by Sir Zulfiqar Ali Khan on the 27th September, 1932;
- (iii) the information promised in reply to unstarred question No. 67 asked by Mr. N. M. Joshi on the 27th September, 1932;
- (iv) the information promised in reply to starred questions Nos. 970 and 971 asked by Mr. M. Maswood Ahmad on the 8th November, 1932;
- (v) the information promised in reply to unstarred question No. 77 asked by Mr. S. C. Mitra on the 27th September, 1932;
- (vi) the information promised in reply to unstarred question No. 78 asked by Mr. S. C. Mitra on the 27th September, 1932; and
- (vii) the information promised in reply to starred question No. 1346 asked by Mr. E. H. M. Bower on the 21st November, 1932.

POWER HOUSES OWNED BY THE EAST INDIAN RAILWAY.

*1230. (a) 19.

(b) Jamalpur.

		Jasidih.
Lillooah.	Dhanbad.	Barakar.
Asansol.	Moghalsarai.	Raneegunge.
Ondal.	Gaya.	Panagar.
Collieries.	Lucknow.	Kiul.
Tundla.	Gomoh.	Hazaribagh.
Jhajha.	Ajodhya.	

(c), (d) and (e). No Resident or Assistant Engineer is directly in charge of individual Power Houses. They are supervised by qualified subordinates under the general supervision of the Electrical Engineers of the section in which they are situated. Government do not consider any useful purpose will be served by collecting information regarding names, qualifications and pay of the men in charge of these Power Houses.

ALLEGED DIFFERENTIAL TREATMENT IN CONNECTION WITH THE FILLING UP OF LEAVE VACANCIES ON THE NORTH WESTERN RAILWAY.

125. (a) Yes.

(b) No. There was, however, a misunderstanding previously regarding the use of the words "Branch and Section". The Commercial Branch is composed of several sections which have erroneously been called 'branches', viz., Compensation, Rates, Refunds, Litigation, Outstandings, Lost Property and Cash witnesses. These are actually sections and are again divided into sub-sections.

(c) Does not arise.

(d) There has been no such case in recent years.

(e) A Muslim clerk was first instructed to officiate in Grade IV, but on detailed examination by the principal officer concerned it was subsequently found that no officiating arrangements were necessary in the vacancy and the arrangement was cancelled. The clerk in question was not entitled to any officiating allowance because he had only officiated for 11 days when he was reverted, and under present orders an employee must officiate in a higher grade for at least 22 days before he becomes eligible to draw officiating allowance.

(f) The senior most man in the Refund Section, a Christian, was not considered fit to officiate as Head Clerk when the latter went on leave, but the next most senior man, who happened to be a Hindu and was qualified to officiate was allowed to do so.

SUBORDINATES OFFICIATING IN THE SUPERIOR SERVICE OF THE GREAT INDIAN PENINSULA RAILWAY.

67.—

Names.	Total length of officiating service.			The date of confirmation if any of them have been confirmed in permanent vacancies.
	Years.	Months.	Days.	

1. (i) Transportation (Traffic).

J. Scott	8	5	1	27th August 1931.
H. L. D'Silva	6	4	..	21st April 1932.
C. Blanche	7	1	19	27th August 1931.
H. H. Callaghan	6	..	..	27th August 1931.
D. V. Pandharkar	6	11	8	25th July 1931.
G. W. Ruffield	4	10	..	25th July 1931.
G. Mulleneux	4	10	25	
F. Found	4	9	4	
G. E. McCann	4	..	10	On leave prior to retirement from 30th August 1931.
L. J. Gellard	1	7	4	

(i) Transportation (Power).

P. L. D. Chatterton	4	3	9	27th August 1931.
B. Nixon	1	4	4	
H. Smith	3	11	14	
H. Ablitt	1	7	2	

Names.	Total length of officiating service.			The date of confirmation if any of them have been confirmed in permanent vacancies.
	Years.	Months.	Days.	
2. (ii) Commercial.				
H. A. Cox	8	2	13	25th July 1931.
G. M. A. Shortt	7	11	14	25th July 1931.
F. C. Meyer	7	8	22	27th August 1931.
U. Dattatraya	7	5	29	
H. G. Bates	6	4	15	27th August 1931.
F. Carvalho	5	6	11	
P. Kedarnath Govindram.	4	9	20	
J. F. Gomes	3	8	12	
P. A. Karnik	2	8	20	
J. A. Marrett	2	2	19	
T. C. Wynne	1	10	11	
3. (iii) Engineering.				
W. J. Leveridge	3	3	21	Retired.
4. (iv) Mechanical.				
E. B. Temple	1	11	21	
H. Fox	1	7	16	
A. C. Otto	5	10	1	
W. Van Reyk.	6	..	8	27th August 1931.
C. R. C. Carrington	3	10	11	

PARCEL CLERKS ON THE NORTH WESTERN RAILWAY.

*970. (a) No, there are five classes (now called grades).

(b) There is one post in Grade V and one post in Grade IV at Delhi and one in Grade IV at Lahore.

(c) Government regret they are unable to give information regarding the communal composition of individual offices or classes of staff.

(d) The rates of pay of the incumbents of the three posts mentioned in (b) above are Rs. 240, Rs. 180 and Rs. 160 per mensem respectively.

PROMOTION OF MUSLIMS TO CLASS "D" OF PARCEL CLERKS ON THE NORTH-WESTERN RAILWAY.

*971. (a) The scales of pay for the different classes (now called grades) of Parcel Clerks on the North Western Railway are as follows:

Grade I Rs. 33—3—60 with efficiency bar at Rs. 42.

Grade II Rs. 66—4—90.

Grade III Rs. 105—5—140.

Grade IV Rs. 150—10—180.

Grade V Rs. 200—10—250.

(b) Class D is now called Grade III, and there is no Muslim in this grade on the North Western Railway.

(c) Class C is now called Grade II. Promotions to Grade III and above are controlled by the Headquarters Office and men recommended by Divisional Superintendents are promoted in order of seniority.

(d) Government have no reason to believe that the claims of Muslim Parcel Clerks are not considered along with others when vacancies in the higher grades arise.

APPOINTMENTS IN THE SUPERIOR GRADES OF THE ASSAM BENGAL RAILWAY.

77. (a) A statement giving the available information is laid on the table. The candidates have been appointed either on the strength of their University qualifications or previous experience or both or after training as probationers.

(b) In cases of appointments from England selection is made by the Consulting Engineers and the Home Board. Appointments made in India were not filed by a Selection Board except in two cases. The Agent, Assam Bengal Railway reports that there were a large number of candidates, particulars of whom were not kept after the appointments were made.

(c) Appointments are sometimes advertised through the press while sometimes selection is made from the very large number of applications received and from the lists received from the Railway Board from time to time.

Assam Bengal Railway Co. Ltd.
(Incorporated in Great Britain.)

Names.	Qualifications.	District or province.	Department.	Date of appointment.	Remarks.
Dr. J. N. Leitch	..	..	Medical	22-4-24	Not in service.
Mr. J. R. Guha	..	Dacca (Bengal).	Audit	16-10-24	
Mr. M. A. Saqui	..	..	Traffic	28-2-25	
Dr. V. J. A. Wilson	..	..	Medical	24-4-25	Not in service.
Mr. J. Isat	..	..	Agency	1-10-25	Do.
Dr. P. C. H. Homer	..	..	Medical	8-1-26	Do.
Mr. J. C. Keating	..	..	Engineering	3-9-26	
Mr. J. L. Dutt (Temp.)	..	Chittagong	Do.	1-12-26	Not in service.
Mr. Sujan Singh	..	..	Do.	7-10-26	
Mr. T. V. Woods	..	..	Traffic	1-11-26	

Names.	Qualifications.	District or province.	Department.	Date of appointment.	Remarks.
Mr. L. E. Hayman . .	..	..	Traffic .	1-11-26	Not in service. Do. Do. Do.
Mr. J. S. E. Gaston . .	..	..	Engineering	16-3-27	
Mr. Syed Sultan Shah (Temp.).	..	..	Do. .	25-3-27	
Mr. E. A. Provan . .	..	..	Loco. .	5-4-27	
Mr. S. Chakravorty . .	..	Sibpur (Bengal).	Do. .	5-3-27	
Dr. P. C. Sen . .	..	Dacca .	Medical .	1-12-27	
Mr. O. Ormerod . .	..	..	Traffic .	7-10-27	
Mr. F. C. Freeman . .	..	..	Stores .	13-1-28	
Mr. E. W. Baker . .	..	..	Engineering	14-9-28	
Mr. B. G. Roy . .	..	Hugli .	Traffic .	9-8-28	
Mr. A. H. Khan . .	..	..	Loco. .	8-2-28	
Mr. E. A. Cole . .	..	..	Do. .	24-11-28	
Mr. S. R. Guha . .	B.Sc. (Calcutta) A.S.A.A. (London) Incorporated Accountant.	Dacca .	Audit .	18-2-29	
Mr. J. E. Tyers . .	..	..	Loco. .	25-6-29	Not in service.
Mr. J. K. Derrick . .	Service transferred from E. I. Railway.	..	Audit .	19-12-29	
Mr. G. A. N. Gaston . .	..	..	Engineering	30-7-29	
Mr. R. M. Bhowmick . .	..	Bengal .	Do. .	30-9-29	
Mr. A. N. Roy . .	..	Do. .	Traffic .	1-4-30	
Mr. A. M. Rankin . .	..	..	Loco. .	7-2-31	
Dr. A. W. J. Morgan . .	..	..	Medical .	7-2-31	
Mr. M. K. Mitra . .	Late Controller of Railway Accounts.	Calcutta .	Audit .	4-11-31	
Mr. P. N. Batra . .	..	..	Loco. .	10-2-32	
Mr. N. H. Clegg . .	..	..	Do. .	20-8-31	
Mr. A. Ghosh . .	..	Jessore .	Do. .	8-8-32	

The Agent, A. B. Railway, reports that Nursing Sisters are treated as Superior Officers on the A. B. Railway and the information in respect of their appointments since 1924 is as follows :—

Names.	Qualifications.	District or province.	Department.	Date of appointment.	Remarks.
Miss C. Coggins . .	..	..	Medical .	5-10-24	Not in service.
Miss E. Straaten . .	..	..	Do. .	16-9-25	Do.
Miss G. Straaten . .	..	..	Do. .	16-9-25	Do.
Miss M. E. Kelly . .	..	..	Do. .	6-7-26	Do.
Miss G. Mahon . .	..	..	Do. .	2-9-27	Not in service.
Miss J. Donaghue . .	..	..	Do. .	18-4-31	
Miss D. Hart . .	..	..	Do. .	18-4-31	Do.
Mrs. P. E. Marsh . .	..	..	Do. .	16-9-31	Do.
Mrs. E. Symmons . .	..	..	Do. .	2-6-31	Do.
Mrs. B. O'Hara . .	..	..	Do. .	1-3-32	Do.
Mrs. M. D'Rozario . .	..	..	Do. .	3-8-32	

EMPLOYMENT ON THE ASSAM-BENGAL RAILWAY OF QUALIFIED PERSONS OF THE AREA THROUGH WHICH THAT RAILWAY PASSES.

78. (a) Not necessarily the candidates considered most suitable are appointed.
 (b) It is understood that there is no dearth of candidates who belong to the area through which the railway passes.
 (c) The Agent reports that particulars of candidates are not retained after the appointments for which the application has been made have been filled.
 (d) There are 12 officers who belong to the area or closely adjoining areas.
 (e) and (f). No. The appointments are made by or under the authority of the Board of Directors of the Railway Company.

CREATION OF THE POST OF PERSONAL ASSISTANT TO THE POWER OFFICER AT BHUSAWAL.

- *1346. (a) No.
 (b) There are four Power Officers on this Division.
 (c) and (d). Do not arise.

THE BENGAL SUPPRESSION OF TERRORIST OUTRAGES (SUPPLEMENTARY) BILL.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Further consideration of the Bill to supplement the Bengal Suppression of Terrorist Outrages Act, 1932.

The question is:

"That clause 5 stand part of the Bill."

Mr. S. C. Sen.

Mr. S. C. Sen (Bengal National Chamber of Commerce: Indian Commerce): Sir, I move the motion which stands in my name:

"That clause 5 of the Bill be omitted."

Sir, this is a Bill to supplement the Bengal Suppression of Terrorist Outrages Act—not a Bill to amend or repeal that Act or any portion thereof. Now, the Statement of Objects and Reasons appended to the Bill says:

"The Legislative Council of the Government of Bengal have passed an Act known as the Bengal Suppression of Terrorist Outrages Act. As the Government of Bengal have no power to pass legislation which affects the jurisdiction of the High Court of Judicature in Calcutta, it is necessary to supplement this Act by an Act of the Central Legislature, to provide for appeals to the High Court in certain cases and to exclude their jurisdiction in other matters."

Sir, in the Notes on Clauses it is stated:

"The provisions of this clause are not capable of enactment by the Local Legislature in so far as they affect the jurisdiction of the High Court. They exclude interference of a nature likely, if exploited, to diminish the efficacy of action taken under the local Act, and are intended to ensure the speedy trial of terrorist offences."

Now, Sir, clause 3 of this Bill has provided for appeals to the High Court of Judicature in Calcutta,—a procedure which it is admitted that the Local Council could not provide. Now, we come to clause 5. In the Statement of Objects and Reasons it is stated that this clause has been added for the purpose of curtailing the powers of the High Court, and my friend, the Honourable the Home Member, while introducing this Bill, stated as follows:

"We propose that just as the Bengal Act has removed the jurisdiction of the lower Courts, we should remove the jurisdiction in this matter of the High Court. The last provision is contained in clause 5 of the Bill and provides for the exclusion of interference of High Courts with the proceedings in the Courts of Special Magistrates."

In other words, the High Court will not have power to entertain applications in revision. It has, however, been admitted by the Honourable the Law Member that this Legislature is incompetent to do what the Honourable the Home Member wanted this House to do. Under these circumstances, the object for which this clause has been added, is for the curtailment of the revisionary power of the High Court. It is admitted by the Honourable the Law Member, and he has also put forward certain amendments for the purpose of showing that there is no intention to curtail the jurisdiction of the High Court. Now, Sir, for what purpose is this clause now to stand? That is the first question which the Honourable the Law Member will have to answer. Now, for the purpose of my argument, I shall divide the clause into two parts. The first part is:

"Notwithstanding the provisions of the Code, or of any other law for the time being in force, or of anything having the force of law by whatsoever authority made or done, there shall, save as provided in the local Act as supplemented by this Act, be no appeal from any order or sentence passed by a Special Magistrate under the local Act."

Sir, this bars all appeals save as provided in the Local Act and under this Act. Is this necessary? I will refer the Honourable the Home Member to section 404 of the Criminal Procedure Code which provides:

"No appeal shall lie from any judgment or order of a Criminal Court except as provided for by this Code or by any other law for the time being in force."

Now, Sir, the Bengal Act has provided for certain appeals to the Sessions Court and, by clause 3 of this Bill, we have provided for appeal to the High Court. That completes the whole cycle, namely, from any sentence passed by Special Magistrates, whether in Calcutta or outside, we have provided an appeal. As a matter of fact, the provisions here have gone further than the provisions of the Criminal Procedure Code, for, under the Criminal Procedure Code, there was no appeal from the Presidency Magistrate for sentences of six months and of certain limited fine. But, under this clause 3, we have provided for every appeal from every sentence passed by the Presidency Magistrate. Similarly, under the Code, there are certain limits for appeal from a Magistrate of the First Class and it must be remembered in this connection that the Special Magistrates can either be the District Magistrate or First Class Magistrates. Under this Act and the provisions contained in section 3 we have provided for appeals of every class of sentence passed by the Special Magistrate either to the High Court or to the Sessions Judges. Under these circumstances, may I know, for what purpose this provision which is contained in the first part of the clause shall stand? There is no utility for it except to encumber the Statute and to make it more incomprehensible.

Now, I come to the second part of the clause:

"and save as aforesaid, no Court shall have authority to revise such order or sentence, or to transfer any case from any such Magistrate, or to make any order under section 491 of the Code, or have any jurisdiction of any kind in respect of any proceedings of any such Magistrate, or of any direction made under Chapter II of the local Act."

I maintain, Sir, that this provision of the Bill goes beyond the Preamble and in effect repeals one of the clauses contained in the Bengal Act which, I submit, having regard to the Preamble, this Legislature cannot do. Now, let me put before you the clauses in the Bengal Act under which I say that this goes beyond or rather amends or repeals the provisions of that Act. Section 26 of the Bengal Act provides:

"In the trial of any case under this Act, a Special Magistrate shall follow the procedure prescribed by the Code for the trial of warrant cases by Magistrates."

Therefore, so far as the Code is concerned, those provisions of the Code which deal with procedure are incorporated here. This is merely a matter of procedure. There are in the Code provisions for revision by the Sessions Judge. Now, let us see how far this Act has affected that power of the Sessions Court. There is nothing in the Act which debars the exercise of that power by the Sessions Court. On the other hand, section 34 of the Act especially enjoins such power being exercised. It runs thus:

"The provisions of the Code and of any other law for the time being in force, in so far as they may be applicable and in so far as they are not inconsistent with the provisions of this Chapter, shall apply to all matters connected with, arising from or consequent upon a trial by Special Magistrate."

Then, Sir, except to the extent of the provisions which have been made inconsistent by the special provisions contained in this Act, all the provisions of the Code apply to the trial by the Special Magistrate whether it is before or after the judgment or during the pendency of the trial. Now, Sir, it may be said that there are sections in this Act which to a

[Mr. S. C. Sen.]

certain extent modify the powers contained in the Code of Criminal Procedure. For that purpose I may point out clause 4 of section 82 of the Act, which runs thus:

"Under section 32, a Special Magistrate in a trial when any accused rendered himself incapable of appearing before the Magistrate, can declare by order in writing to dispense with the attendance of such accused."

Now, what happens after his presence was dispensed with? If there are any irregularities after that, provisions have been made barring any remedy. This is contained in clause 4 which runs as follows:

"Notwithstanding anything contained in the Code, no finding, sentence or order passed in a trial before a Special Magistrate shall be held to be illegal by any Court by reason of any omission or irregularity whatever arising from the absence of any or all of the accused whose attendance has been dispensed with under sub-section (1)."

This clause has a very important bearing on the question which I am now putting before you, because, under this clause, all the subsequent irregularities are barred. If it had provided in a general way that all omissions or all irregularities in a trial before a Special Magistrate are barred, I could understand it, but it does not say so. It expressly states that only such omissions and only such irregularities as might happen in the proceedings by reason of or arising from the absence of any or all of the accused. Therefore, such irregularities must be after an order has been made under section 32. Any omissions or irregularities so long as the accused are present are not barred by this clause and, therefore, the provisions contained in the Code relating to the power of revision by the Sessions Judges still remain. Those provisions remain, Sir, first, by implication and, secondly, by virtue of section 34 which enjoins that all the other provisions of the Code which have not been barred by this Statute shall have effect and shall apply. Under these circumstances, my contention is that the provisions contained in the Code and which have been made expressly applicable under section 34 are debarred by this clause 5, and, I submit, that that cannot be done having regard to the Preamble which says that it is to supplement. I do not know whether under section 87 of the Government of India Act sanction has been obtained for amending or repealing this Act. But if such sanction has been obtained only on the ground of the Preamble, namely, that this is an Act to supplement and not to repeal or amend, I submit, no provision ought to be in the Bill which in any way goes beyond the Preamble. With these observations, I move the motion standing in my name for the deletion of the whole clause.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Amendment moved:

"That clause 5 of the Bill be omitted."

The Honourable Sir Brojendra Mitter (Law Member): Sir, so far as I understand Mr. Sen, he has made two points: he says that the first part of clause 5 is unnecessary and that the second part is *ultra vires*. With regard to the first part, I wish the House to remember that under the ordinary law, rights of appeal are given to certain Courts: for instance, from a First Class Magistrate a right of appeal is given to the Sessions Court in all cases. What we are doing in the first part is that we are giving a right of appeal in certain cases to the Sessions Court and in other cases to the

High Court. To that extent we are changing the law. It is to the benefit of the accused, because, under the Criminal Procedure Code, there was no appeal to the High Court from the decision of a First Class Magistrate. But what we are providing in clause 3 of the Act is that an appeal shall lie to the High Court from any sentence of transportation for a term exceeding two years or of imprisonment for a term exceeding four years passed by a Special Magistrate in any trial under the Local Act held outside the Presidency-town of Calcutta. Therefore, you cannot say that this is unnecessary. We are changing the procedure in the matter of appeal: whereas the Criminal Procedure Code gives an appeal merely to the Sessions Court, we are giving a right of appeal in the lesser sentences to the Sessions Court, but in all the heavier sentences we are giving the appeal to the High Court. If it be asked why we are making this change, I say we are making the change for this reason: we have provided in clause 5 that there should not be any interference with the trial of an accused during its pendency. After the trial is over, we have given large rights to the accused. But, for ensuring a speedy trial and a speedy conclusion, we are stopping all intermediate dilatory proceedings and that is why it is necessary that the accused should be given some more privileges than he has under the Criminal Procedure Code. During the trial he cannot prolong it at his sweet will—he cannot, on any excuse, good, bad or indifferent, run up to the High Court and hold up proceedings. We have stopped all that. Having stopped all that, we are giving the accused greater rights in the matter of appeal: Honourable Members will realise that when an appeal is preferred to the High Court, the accused can take any objection to the order, either on a question of law or on a question of fact or on a question of procedure. Everything is open to the accused, so that substantially we are not taking away any rights, but we are merely ensuring a speedy trial stopping intermediate dilatory procedure. That is the necessity of the first part of clause 5. As regards the second part, my Honourable friend says that it is *ultra vires*, because we say that this is a supplementary Act, but we are not merely supplementing it, but also amending it. That is not a question of jurisdiction. You may say if you are so very meticulous that we ought to have stated this as an Act to supplement and also to amend. If my friend will look to the endorsement on the back of the Bill, he will see it has received the sanction of the Governor General. With the sanction of the Governor General under section 87 of the Government of India Act, this Legislature has the power not merely to supplement, but also to amend. Therefore, there is no question of this Bill being *ultra vires* of the Legislature. You may say that the Preamble is not exhaustive enough: that is the utmost you can say.

Mr. S. C. Sen: That is what I have said.

The Honourable Sir Brojendra Mitter: You said it was *ultra vires*.

Mr. S. C. Sen: . . . of the Preamble.

The Honourable Sir Brojendra Mitter: If my Honourable friend is so subtle, I can meet his subtlety by another subtlety and that is that the Preamble is never part of the operative portion of an Act. Anyhow, let us not go into those matters. Then, my friend says what becomes of the

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High Court? It was admitted by me, when you, Sir, gave your ruling the other day, that we cannot in any way interfere with the rights of the High Court under section 107 of the Government of India Act. I still say so. On that occasion I pointed out that apart from section 107 of the Government of India Act the High Court derived its powers from other sources—I mentioned two, the Criminal Procedure Code and the Letters Patent; and this Legislature has the right to take away these powers in so far as they arise from the Criminal Procedure Code or the Letters Patent. Therefore, my answer to my friend on the second point of *ultra vires* is, that this Bill is within the competence of this Legislature.

Sir Abdur Rahim (Calcutta and Suburbs: Muhammadan Urban): Sir, I support the amendment that has been moved by my Honourable friend, Mr. Sen. I do not wish to argue any question of technicality; but I must point out at the outset that though we accept your ruling as regards the amendments which will be moved, I take it, by the Honourable the Law Member being in order, it does seem absolutely difficult, nay impossible, to conceive how the powers of superintendence which are vested in the High Court and which cannot be in any way affected by legislation by this Assembly are going to be preserved if the clause, as it stands, remains. You may put in any words like what have been used in the amendment which is proposed by the Government. But the difficulty still remains that you have got to define the power of superintendence and the powers which are taken away by this clause. This clause could not be any more sweeping than it is, I mean, even taking the amendments into consideration, the words "notwithstanding any law for the time being in force" include the powers that are exercised by the High Court. Then, we have again, "Notwithstanding the provisions of the Code, etc., no Court shall have authority"—I take it, that includes the High Court,—"to revise such order or sentence, or to transfer any case from any such Magistrate, or to make any order under section 491 of the Code", and so on. It seems to me that, unless we have some sort of definition of the powers of the High Court which are still left and of the powers which are taken away by this clause, it will be putting the High Court in a very difficult position. I do not know how the Honourable the Law Member proposes to reconcile this clause with the powers of superintendence that are vested in the High Courts. Under the powers of superintendence vested in the High Courts, they can revise any sentence or order if they are satisfied that there has been an obvious and gross miscarriage of justice. The fact is that the Magistracy and the subordinate judiciary in this country at this stage could not be trusted with exercising that large powers without some supervision by the High Court. That difficulty still remains in spite of the amendments which are proposed.

Now, I come to the merits. I agree with a great deal of what has been said by my friend, Mr. Sen, but I go further and say that really no good purpose will be served by taking away the powers vested in the High Courts. The Honourable the Law Member pointed out that appeals were allowed from sentences of Magistrates to the High Court which, under the ordinary law, would not go to the High Court, but only to the Sessions Judge. That is perfectly true, but this is not really giving a right to the accused which did not exist; it is really taking away the right of the accused to go to the High Court in order to obtain revision of the sentence if there has been an irregularity or any error in deciding a question of law.

The Honourable Sir Brojendra Mitter: We are curtailing the proceedings.

Sir Abdur Rahim: But look at the powers Government are vesting in the Magistrates. The Magistrate may be a man of four years' standing under section 24 of the Bengal Terrorists Outrages Act, or he may be a man of longer standing, but you are giving him power to pass any sentence except a sentence of death or transportation for more than seven years. He can pass a sentence of hard labour for seven years or six years or transportation for six years, and that is a power which is not given to any Magistrate under the Criminal Procedure Code. This is a special power, and, therefore, the appeal should necessarily be to the High Court. There can be no denying that this is the reason why an appeal is allowed to the High Court. At the same time, you are taking away another remedy which the accused ordinarily has. Under the ordinary law, an accused person, who is sentenced by a Magistrate, has two remedies, one an appeal to the Sessions Judge and then to go to the High Court for revision, if there has been any irregularity or any error in deciding questions of law. Therefore, it cannot be said that a special privilege has been conferred on the accused under this Act. I do not understand why this power of revision by the High Court should be taken away. Do the Government really mean to suggest that the High Court is likely to exercise its powers wrongly or in an erratic manner?

The Honourable Sir Brojendra Mitter: No, Sir; we do not suggest that.

Sir Abdur Rahim: I take it that the Government do not suggest that, People generally in this country have very great confidence in the High Courts

The Honourable Sir Brojendra Mitter: So have we.

Sir Abdur Rahim: In that case, I ask, why should the power of revision by the High Court be taken away even in the interests of speedy trial? The trial is finished, the man has been sentenced, and very likely he is in jail. There is no question of trial. All that the High Court will do under its power of revision is to see that there has not been any grave irregularity of procedure or that a question of law involved in the case has not been wrongly decided. Do the Government contend that if there has been no proper trial, still the conviction must stand and the High Court's hands must be tied?

The Honourable Sir Brojendra Mitter: I think my Honourable friend is under a misconception. The High Courts' powers of superintendence under section 107 cannot be taken away and the High Courts of Calcutta and Bombay, as I pointed out, have exercised powers of revision under section 107. Therefore, it is not a question of the High Courts' powers of revision being taken away.

Sir Abdur Rahim: Then, I say, the Bill is very badly drafted. It says: "No Court shall have authority to revise such order or sentence or to transfer any case". Is not the High Court a Court? I do not find any amendment on the agenda to the effect that it should be no Court than a High Court

The Honourable Sir Brojendra Mitter: There is an amendment. It will be moved presently.

Sir Abdur Rahim: An amendment to the effect that no Court other than a High Court . . . ?

The Honourable Sir Brojendra Mitter: It will be moved presently. I am going to move the last amendment.

Sir Abdur Rahim: Yes, I see, here is one—"Provided always that nothing herein contained shall affect the powers of the High Court under section 107 of the Government of India Act". But this is only a proviso. In the clause itself it says: "No Court shall have authority to revise such order or sentence". Surely the two things are inconsistent. At any rate, it is absolutely bad drafting. I think the Honourable the Law Member is aware that the powers of superintendence are not exercised in the same way as the powers of revision. Power of revision is an ordinary power of the High Court under the Criminal Procedure Code, and it has always been interpreted that the power of superintendence which is vested in the High Court by the Letters Patent or the Charter Act or the Government of India Act is not to be exercised except in very rare cases. I should like to know if the Honourable the Law Member contends that both the powers are exercised in the same way. I mean the powers of revision and of superintendence. If that be so, why take away the ordinary powers of revision of the High Court, unless the position of the Government be, that however irregular the so-called trial has been, even if there has been a gross miscarriage of justice, even if a material question of law which affects the entire trial and the conviction and sentence has been wrongly decided, even then it ought not to be set right.

The Honourable Sir Brojendra Mitter: It can be set right in appeal.

Sir Abdur Rahim: But there is no second appeal. We know, as a matter of fact, in how many cases revision is sought for from the High Court and the High Court has to interfere . . .

The Honourable Sir Brojendra Mitter: My learned friend is under a misapprehension. An appeal has been given in every case. Whereas appeals do not lie under the Criminal Procedure Code in every case, yet under this Bill and the Bengal Bill an appeal has been given in every case however slight the punishment may be.

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): To the Sessions Court.

Sir Abdur Rahim: My learned friend's contention is this, that there is no occasion for a revision at all, not even against the order of the Sessions Judge in appeal. Then why put in these words? I mean, he cannot get out of it. Surely this is opposed to our every-day experience. As the clause is drafted, it is certainly bad. Also, as a matter of fact, there may be revision of certain intermediate or interlocutory proceedings which would otherwise lead to the trial being vitiated by irregularities. Is it the object of the Government that in those cases the High Court should not interfere?

The Honourable Sir Brojendra Mitter: No, that is not so.

Sir Abdur Rahim: Then it is very difficult to understand what is the object. If Government want only to take away the powers of revision, which are vested in the Sessions Court, then say so plainly. In fact the Sessions Court itself cannot revise or alter or repeal a sentence. It cannot do so, it has got to refer to the High Court. So, ultimately the matter has to come to the High Court and it is the power of revision of the High Court that has to be exercised if a wrong conviction has to be set right. The Sessions Judge has got full powers so far as orders of discharge are concerned, but not in the case of convictions. Therefore, if all that is intended by Government is to limit the powers of the Sessions Court as regards the revision of proceedings, then, they could have very easily made that absolutely clear in the clause itself, and they need not have mentioned "Court" in general terms. If that were so, in that case I think there might be no very serious objection to the clause being modified in that way. But if you use language like this, then you are taking away the very necessary and salutary power of the High Court to revise proceedings of Sessions Judges and Magistrates. Now, Sir, as regards transfer, is it intended that there shall be no transfer at all? Supposing a Magistrate from the very inception has shown bias against the accused or has made statements which show that he has prejudged the case, is there to be no transfer at all? Only the other day, the right of transfer, of getting proceedings stopped,—because of an application for transfer—has been considerably curtailed, and we supported that view, in connection with the amendment of section 526 of the Criminal Procedure Code. By this clause, you are doing away with the power of the Superior Court to transfer any case whatever which is pending before a Magistrate. Is that right? Do we not all know by experience that there are cases in which, in the interests of fair trial, a case should be transferred? What is the justification for this prohibition? Take the provision relating to section 491. "No Court shall make any order under section 491". I do not know if my knowledge of the law is rusty, but I should think that that power is only vested in the High Court. How could my learned friend say here that "Court" means only the Sessions Court?

The Honourable Sir Brojendra Mitter: I do not say that "Court" means the Sessions Court. It does include the High Court, but by the proviso the power of the High Court under the Government of India Act is preserved.

Sir Abdur Rahim: Then I take it that by this clause Government are really encroaching upon the power of superintendence of the High Court . . .

The Honourable Sir Brojendra Mitter: Undoubtedly.

Sir Abdur Rahim: To what extent? Let us know clearly what powers are left.

The Honourable Sir Brojendra Mitter: I have explained over and over again that we are taking away the powers which are given by the Criminal Procedure Code, powers which are given by the Letters Patent, but we

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are not taking away the powers given under the Government of India Act. . . . (Mr. S. C. Mitra: "Which you cannot"). . . which we cannot,—quite right. (An Honourable Member: "Very great generosity!")

Sir Abdur Rahim: Does not the power of superintendence cover a great deal of the power of revision?

The Honourable Sir Brojendra Mitter: What it covers it covers.

Sir Abdur Rahim: Then, why express it in such vague and general terms? Define it, say that the High Court shall go so far and no further, and that was really what the Honourable the Law Member was asked to define.

The Honourable Sir Brojendra Mitter: That is the function of the Court, and that is not the function of the Legislature—to interpret what the word "superintendence" means.

Sir Abdur Rahim: But the function of the Legislature is not to put difficulties in the way of the Court, and that is what this clause will do. You are really leaving matters so vague and so inconsistent that it will be very difficult for the High Court to exercise its power of superintendence.

Let us come to the merits of the provision regarding section 491 of the Code; that is what is called the *Habeas Corpus*. Now, supposing a person who has been arrested is kept indefinitely in custody and is not brought before a Magistrate, is it the case of Government that even in such a case the High Court should not interfere? Who then? There is no other authority that can interfere. I take it that the Magistrate, even under this Act, is not expected to keep an accused person indefinitely in custody. But supposing a Magistrate does that from time to time, for months together, if not a Magistrate, supposing the police does it, and the man is not being tried, is it to be said that the High Court should not interfere in such a case? It seems to me that this clause, if it is put on the Statute-book as part of the law applying to Bengal, it will go very far to prevent an accused person having a fair trial, and that certainly is not the object of this Bill or the Bengal Act. You must give the accused person—who is in custody, who has been brought upon a serious charge—you must give him the chance of fair trial, but the chances of fair trial are very seriously prejudiced by this clause.

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): Sir, I support this motion. I think these are not the days when the law should be curtailed or retrograde measures adopted. These are days when the law should be liberalised, should be improved upon, and obstructions such as these should not be put in the way of getting a remedy.

I will come directly to the Bill itself and I submit that I would call this clause 5 not only retrograde, but a cruel one. It provides that three or four powers of the High Court have to be removed. The first is with regard to the revisional powers. At present the High Court has got revisional powers under section 439 of the Criminal Procedure Code and I must point out that, it is not only a Chartered High Court, but every other Court, exercising powers of the Highest Court, have got similar powers

under section 489, Cr. P. C., just as the Judicial Commissioner's Court in Sind. Therefore, the powers under section 439 Cr. P. C. are equal powers in the Chartered High Courts as well as the High Courts not having been created under the Letters Patent. The first attempt of this clause is to take away the powers of the High Court which are called the revisional powers. The second attempt is to take away the power of transferring cases which is again a power given to the High Court and also given in certain cases to District Magistrates. That power is also being done away with under clause 5 of this Bill. Then, the third power, which is minimised by this clause, is the one given under section 491, Cr. P. C., by which the Chartered High Court may send for the proceedings and also to order any person who is in confinement wrongly to be brought up before that Court for liberation. The mischief contained in this clause is that the High Court's jurisdiction on very important points is being impaired. It is the extreme limit to which this clause goes. Now I would refer to certain defects in this clause. I refer to the remark of the Honourable the Law Member that powers are now being given under clause 3 to the High Court to hear appeals under this Bill and that there is no necessity of giving any revisional power to the High Courts under section 439, Cr. P. C., but may I point out to him that under clause 3 the appeal to the High Court from outside the Presidency-town will only lie against sentences which are for more than two years and not below. In that case, it comes to this that under the Bengal Act appeals for two years and more will lie to the High Court, but there will be absolutely no interference by the High Court for lower sentences imposed outside the Presidency-town. Whatever the Sessions Judge does will stand absolute and final. I submit that this is injustice. At present every accused has got the privilege to go to the High Court for revision and to take away those powers in cases where the punishments is for two years and under is absolutely wrong and this is a provision to which, I do not know, if the attention of the Honourable the Law Member has been drawn, for he said no power was being curtailed, but on the contrary the appeals were being allowed to be made to the High Court. But so far as these particular cases from outside the Presidency-town are concerned, the High Court has got no power at all. This is, therefore, the position which we should not accept. Then, coming to the revisional powers, I confess I cannot at all understand the difference the Honourable the Law Member makes out between revision under section 107 of the Government of India Act and revision under section 439 of the Criminal Procedure Code. Up to this time, the Honourable Member has not told us what is the difference. In my humble opinion, there is absolutely no difference and it will be a contradiction in terms to say in one breath that the High Court has got powers under section 107 and in the other breath to say that, under section 439, the High Court has got no powers. Under section 485, Cr. P. C., the High Courts and some other Courts may call for and examine the records of any proceedings of any inferior Criminal Court situate within the local limits of their jurisdiction for the purpose of satisfying themselves as to the correctness, legality or propriety of any finding, sentence or order recorded or passed and as to the regularity of such proceedings. The question arises, are similar powers conferred by section 107 of the Government of India Act? If they are, then it is absolutely *ultra vires* to enact the present clause. Reading section 107 of the Government of India Act, what do we find? Each of the Chartered High Courts has got the power of superintendence over all Courts for the time being subordinate to its appellate jurisdiction. These

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are very wide powers, even wider than those covered by section 435, read with section 439, Cr. P. C. How is it then that this provision is being enacted in the face of the existing provision under section 107 of the Government of India Act, for, the Honourable the Law Member concedes that the powers under that section are not being wrested away from the High Courts. Therefore, I say, that the legislation which we are attempting to make will be inconsistent with powers under section 107. Furthermore, how could an invidious distinction be maintained between a High Court which is a Chartered one and the other which is not Chartered. There have actually been cases in Sind, which have been reported, wherein proceedings taken under Ordinances could not be sent for by the Court of the highest jurisdiction under section 107, though it was found out that clear injustice had happened in such cases.

The Honourable Sir Brojendra Mitter: That distinction has been made by Parliament, not by us. It is in the Government of India Act itself.

Mr. Lalchand Navalrai: Is it therefore, that you are worsening the position? Unless the Honourable the Law Member provides that powers under section 439, Cr. P. C., will be exercised by a Court which is not a Chartered High Court, he can not be said to be consistent. Otherwise it amounts to taking away at present all powers of revision from Courts of Judicial Commissioners, and I do not know why such an injustice should be allowed to be perpetrated

The Honourable Sir Brojendra Mitter: Does my learned friend not realize that we are dealing only with the Calcutta High Court, because this is a Bengal Act? It has no application to Sind.

Mr. Lalchand Navalrai: I am dealing with the question of principle. The Government might apply the principle—which is being laid down for Bengal today—the next day to other places too. Where is the guarantee that the Government are not on its way to do things that are retrograde? I submit that the Bombay High Court in connection with the Ordinance did send for records under section 107 of the Government of India Act and corrected the proceedings by acquitting the accused concerned. Therefore, I submit, that while it is being suggested that under section 107 of the Government of India Act, proceedings may be sent for, those under section 439, Cr. P. C.,—a similar law—would not be sent for, a position is being created which is wholly anomalous. Next, I find, there is a section in the Criminal Procedure Code—section 404—which reads thus:

“No appeals shall lie from any judgment or order of a Criminal Court except as provided for by this Code or by any other law for the time being in force.”

Now, reading this section we find that an appeal shall lie in such cases as are provided for by the Code of Criminal Procedure or by any other Act. Unless we have such a section restricting the powers of revision, also in the Criminal Procedure Code Revisional Chapter, the High Court shall not be barred by any legislation, and until such time the High Courts shall have jurisdiction under section 439, Cr. P. C., to send for records. That is another legal difficulty which should be realised.

Then, Sir, as regards the question of transfer, powers in regard to which are being taken away in respect of proceedings under the Bengal

Special Act, at present the High Court and under section 528 of the Criminal Procedure Code, the District Magistrates have powers of transfer and the attempt is that these powers should not be exercised by them. This is wholly objectionable. Sir, I fully agree with the remarks of the Honourable Sir Abdur Rahim, who has so much experience of High Courts and of the administration of justice. We are reduced to this extraordinary position, that under the Bengal Act accused persons remain wholly at the mercy of these Magistrates. After all, Magistrates are human beings, and they may be good, bad or indifferent, and there may be Courts partial or otherwise, but here you are placing the accused absolutely at the mercy of a Magistrate who will practically decide that case finally. Sir, I submit with all the emphasis at my command that such a procedure is absolutely against all canons of justice and against all laws of all countries, that a man, whose case is being tried in a manner flagrantly, wrongly or illegally, should not have the opportunity to go to the High Court for transferring his case! Sir, what is legislation for, for giving justice and no injustice to people? I, therefore, submit that it is wholly and absolutely wrong to do away with the powers of the High Court under section 426, Cr. P. C. Sir, there ought always to be reason, sense and logic in doing things, especially in legislation. What reasons have the Treasury Benches given for this legislation? They say, it will delay matters. That may be quite right, but is it fair that a man who wants justice should not be given justice, because there will be some delay? Is there any sense in it? The Honourable the Law Member knows that only a short time ago, the transfer law was changed and improved upon so much as to deter more than one application being made for transfer. Under that law several barricades have been put in the way of transfer applications. An applicant has to be bound down to make the intended transfer application or he would be fined. He has been given an opportunity to apply for transfer only once. That being the case, does the ground of this apprehended delay exist still? Is not this fear, therefore, merely in the imagination of the Honourable the Law Member and the Treasury Benches? Can it be denied that sometimes Magistrates in some cases do lose their head, or go bound by certain instructions, or that sometimes they take up an attitude absolutely intolerable, and do they mean to say that in such cases also there should be no power of reference to the High Court? Sir, that is palpably and grossly wrong and unjust. Then, as regards the powers under section 491, Cr. P. C., there again arises a legal question. Oft-times it has been admitted by the other side that the High Courts' powers under the *Habeas Corpus* Act could not be taken away by powers under section 491, Cr. P. C., having been reduced. Now, the *Habeas Corpus* Act gives more powers than those bestowed by section 491, Cr. P. C. Is it not a contradiction in terms to take away lesser powers the High Court possesses which are covered by the *Habeas Corpus*? Again, the Honourable the Law Member wants to be partial to the Chartered High Courts, as those Courts which are not Chartered High Courts cannot send for records under the *Habeas Corpus*

The Honourable Sir Brojendra Mitter: Probably my learned friend is not aware that the High Court of Calcutta has held that apart from section 491, the High Court has no powers under the *Habeas Corpus* Act. Sir, I had the honour of arguing that case.

Mr. S. O. Sen: That is a wrong judgment.

Mr. Lalchand Navalrai: Sir, I also had the honour of putting up two cases against that case in this House. He has referred to a Calcutta judgment but I quoted 50 Madras and a Bombay case against the Calcutta view.

The Honourable Sir Brojendra Mitter: We are dealing now with the Calcutta High Court.

Mr. Lalchand Navalrai: It was the Calcutta High Court, of course, from which my Honourable friend, the Law Member, secured that view. That case, however, was a case of one Judge and it was not a Full Bench case. Now, when you have two High Courts against one High Court, why is it that this Calcutta case is always trotted out and put before this House? Sir, I submit that in any event there is a difference of opinion,—and why should it be held that High Courts have no such power? Still more, if the High Court has got no powers under the *Habeas Corpus* Act, then this section in the Criminal Procedure Code must remain unaffected, otherwise it is a blot on justice, it is a blot on the Legislature to enact such an enactment. So, I submit that there is neither consistency nor any logic in the drafting of this clause 5 and I appeal to the House, specially those who are not lawyers, to give their attention and to look at it from the commonsense point of view. The House should remember that it is making a law which is detrimental to the country. It is not a communal question. It will affect everybody, be he a European, a Parsee, a Christian, a Hindu or a Muhammadan. Therefore, beware of the law you are making. I think the motion moved is a very salutary one and it should be accepted.

Then, Sir, I come to the last portion of the clause itself. A mere cursory reading will show how unjust and how unreasonable it is. It says:

"The High Court or any Court will have no jurisdiction of any kind in respect of any proceedings of any such Magistrate."

These are too wide powers. In clause 3 (1) (a), it has been said:

"An appeal shall lie against any sentence passed by a Special Magistrate in any trial held under the local Act in the Presidency-town of Calcutta."

I take it that this is a trial of the accused person who is before the Court and if he is sentenced, there will be an appeal, but may I ask, if in that trial the Special Magistrate takes up the proceedings against any witness or any person who is not even a witness who commits contempt of the Court and fines him Rs. 200, which he can, will there be an appeal or revision, or no? This is a question that I pertinently put to the Honourable the Law Member. As no answer has come from him, I take it that there will be none. Is that justice? I do not think I need take up the time of the House any further to bring to light the injustice that this clause will do and I fully support the amendment under consideration.

Raja Bahadur G. Krishnamachariar (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural): Sir, after the elaborate argument put forward by my Honourable friend, Sir Abdur Rahim, to which I think the Honourable the Law Member practically agreed in so far as the clearness of expression is concerned, I did not think there was any necessity to take up the time of the House by making long speeches. But the observations that fell from my Honourable friend, Mr. Lalchand Navalrai, have compelled me

to offer in my own humble way a few remarks. I think he was under a misapprehension when he said that the Government Bench had made a distinction between section 107 of the Government of India Act and section 489. As a matter of fact, it was Sir Abdur Rahim who said that there was a distinction and, if my friend, Mr. Lalchand Navalrai, had referred to section 107 of the Government of India Act, he would not have raised any objection on that score. Section 107 of the Government of India Act runs thus:

"Each of the High Courts has superintendence over all Courts for the time being subject to its appellate jurisdiction, and may do any of the following things, that is to say, call for returns, direct the transfer of any suit or appeal from any such Court to any other Court of equal or superior jurisdiction, etc., etc."

Then there is a proviso that these rules shall not contravene any other existing rules, etc. It will be seen from this that the powers of revision under section 489 have not been touched by this clause at all, and, if I may say so with respect, to the later decision of the High Courts, superintendence that is contemplated is only an executive superintendence and not a judicial superintendence.

Mr. Lalchand Navalrai: Will the Honourable Member excuse me if I correct him? In section 107 of the Government of India Act, there is a power of superintendence which is general and very wide and will include powers such as are invested by section 489, Criminal Procedure Code.

Raja Bahadur G. Krishnamachariar: That is what I was trying to point out. Each of the High Courts has superintendence over all Courts and may do any of the following acts. To me it appears that these two put together exclude the exercise of any judicial act and that is the reason why the power to transfer has had to be especially provided for in clause 2. One does not overlap the other and I respectfully submit that if you take away the power under section 489, you would take away every judicial power of revision and, therefore, section 107 will not by itself help anybody. Consequently, my friend, Sir Abdur Rahim, is perfectly right in contending that the power conferred by section 107 is quite different and is very much less than what the justice of the case may require. Therefore, it is absolutely necessary if you want to take away the power of the High Court under section 489, as the Honourable the Law Member has stated that he was doing, that some provision ought to be made which will invest the High Court with power to exercise its proper and legitimate function, namely, to set right injustice and the mistakes of law and of procedure on the part of the lower Courts. I would, therefore, submit and request the Honourable the Law Member to bring his mind to bear upon this very important question and not to run away with the idea that section 107 of the Government of India Act covers the whole issue. He ought to make a provision in such a manner that the power that he says he is taking away would be restored in some other manner by which it can be exercised. That is all I have to say, Sir.

Mr. O. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): Sir, ordinarily I should not have spoken on this amendment and I had no original intention to speak either. But I must, in view of the attitude, not altogether unexpected, taken by the Honourable the Law Member, speak out once again that this is an amendment to which the Opposition attaches a great deal of importance and this is a clause to

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which it takes strong exception. This is really the central point in our controversy and if this clause had not been added to the Bill, the Bill would not be so unpleasant and so unwholesome as we consider it to be. Sir, in his usual lucid manner, the Leader of the Independent Party, a great Judge once upon a time, has mentioned his own apprehensions based on his own personal experience, an apprehension shared by a very important advocate and learned Member from Sind. Our objection in this matter is the objection to the restriction of the right which otherwise would have been enjoyed by the internees under the Bengal Regulation of 1818, the Madras Regulation of 1819 or the Bombay Regulation of 1827. Nothing in section 491 of the Code applies to these Regulations of the nineteenth century. I cannot understand the Honourable the Law Member in this twentieth century bringing down the restrictions under that "rusty" Regulation, as Lord Morley described it, upon people who are to be imprisoned under this new Bengal Act. That is one consideration which the Opposition cannot altogether ignore.

The other consideration is doing away with the intermediate stages. The Honourable the Law Member conceded that in lighter sentences there will be an appeal to the Sessions Court and in heavier sentences an appeal to the High Court. - I admit that he has tried to make the best of a bad job; but the job continues to be bad all the same; and, Sir, when the existing rights are being taken away under a law, we must strongly protest. As for the wording of clause 5 which the Honourable the Law Member is amending,—this is more or less a superfluous amendment, judging by the subtleties of law, but a necessary amendment judging from the necessities of this House,—I can only say that he still takes away some of the existing rights and privileges of the High Court as he makes clear in his Statement of Objects and Reasons. He excludes their jurisdiction in certain matters: to this exclusion of jurisdiction the Opposition cannot reconcile themselves. It is a matter in which we cannot agree with the Government and if the Honourable the Leader of the House had cared to consult the High Courts themselves or the High Court of Calcutta, I am sure, he will get an opinion not wholly palatable to the Government of India. I need not say further than this, that the wording of clause 5 has sometimes made us think that the law, as Dickens said, is "an ass or an idiot", however much very clever and competent lawyers might try to give it a different appearance.

Mr. S. C. Mitra: Sir, I support the motion of my friend, Mr. Sen. It is strange that the Head of the Law Department of the Government of India is anxious to leave the meaning of the clause that we frame here to the sweet will of the judges. I think it is the function of the Legislature to make distinct and clear what they want to enact. If I understood him right, the Honourable the Law Member said definitely that he was not anxious to say how much was kept reserved for section 107 of the Government of India Act and how much was being taken away under the sections in the Criminal Procedure Code for revision. He likes to leave it for the individual judges in Courts to decide; and he is going, I see, to move a amendment where he says, provided always that nothing herein contained will affect any power of the High Court under the section of the Government of India Act which we have no right to take away by this Legislature. On a similar occasion, when the Ordinance Bill was passed

into law, he accepted a similar amendment. The drafting power of the Legislative Department seems to be improving every day. Whenever they are tackled with a question, they say "We will make a provision saying that what is not illegal is legal; and what is not taken away by this section is not taken out by this section." This sort of subterfuge, I think, should be the last function of any Legislature. We should definitely say what powers we are taking away by this present clause and what is left under section 107 of the Government of India Act. A distinguished lawyer like the Honourable the Leader of the House is hesitating, though challenged times without number by my Leader, Sir Abdur Rahim, to say what is left under that phrase "the power of superintendence of the High Court," if the rights under the revisional sections of the Criminal Procedure Code are taken away—every time the Leader of the House failed to make any point; and he left it to the people at large and to every Court to interpret it in its own way. I think we shall fail in our duty if in this clause we do not say that these are the rights that are being taken away and these are the powers left out. You, Sir, very judiciously and ably pointed out that this clause 5 was simply ridiculous and that we should not have said with our eyes open that the powers which we could interfere with should not have been interfered with; and I think you will gladly give a chance to the Honourable the Law Member to submit further amendments, if necessary, to make that point perfectly clear as to what rights of the High Court by this particular clause he wants to take out. Sir, if that is not done, I think the best way would be to delete this whole clause.

Pandit Satyendra Nath Sen (Presidency Division: Non-Muhammadan Rural): Sir, in spite of the amendment to be proposed by Government, this clause, as I have understood it, is open to serious objections: firstly, it interferes with the revisional powers of the High Court; then it interferes with the ordinary law of the transfer of cases; and then it takes away the *Habeas Corpus* which is of the utmost importance in these days of high-handed oppression. These are the legal grounds, and they have been ably and elaborately dealt with by my lawyer friends. I am not going to make any further observations on those points. I shall confine myself to the removal of some misconceptions of Honourable Members of this House. We are opposed to this clause, not because we plead for any leniency to the political terrorists as was stated on the last occasion by my Honourable friend, Major Nawab Ahmad Nawaz Khan, nor because we are indifferent to the activities of terrorists as was stated by the Honourable the Home Member. As to the first point, I should say that no one on this side of the House has ever pleaded for leniency to the terrorists. The only thing that we have pleaded for is that the accused person should have a fair trial, and that he should not be denied that privilege. Personally speaking, I and many other laymen of my way of thinking, make very little distinction between a successful murderer and an unsuccessful murderer. It is people like my revered friends over there that make these distinctions by their nice knowledge of law. However, they have accepted this principle so far as political terrorists are concerned, but they have not accepted this principle in regard to non-political terrorists, I mean the dangerous *goondas* who infest our cities knowing full well that they are quite safe and secure under the present British Government whose attention is solely concentrated on political suspects.

Mr. K. Ahmed (Rajshahi Division: Muhammadan Rural): There is already the Goonda Act passed in Calcutta.

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Pandit Satyendra Nath Sen : In spite of that, there are still many of them making a lot of mischief every day. I should only ask the Honourable the Home Member to judge which of these two classes of criminals are more dangerous—an accidental terrorist actuated, though erroneously, by a lofty ideal according to his own light, or the habitual murderer actuated by the meanest of motives?

As to the second point, the Honourable the Home Member asserted that we are utterly indifferent to the activities of the terrorists, our reply is that we are not at all indifferent to their activities. We read the reports in newspapers and we always shudder. In fact we are actually tired of taking an account of all these acts of terrorists committed on this side and on that side, and we confess that we have ceased to be as sensitive about these acts as we used to be five years ago. Our position is lamentable. We only pray that we should be allowed to live in peace. There is no denying the fact that most people have lost faith in British justice.

Sir Abdulla-al-Mamun Suhrawardy (Burdwan and Presidency Divisions: Muhammadan Rural): In the High Court also?

Pandit Satyendra Nath Sen: The other day when I was narrating the story of a girl who fell a victim to the hooligans at Chittagong, the Honourable the Home Member inquired whether that case was brought before the Court. Sir, I unfortunately, being a back bencher, failed to catch his words, otherwise I would have told him at once that such cases are not brought before Courts. People have lost faith in British justice, especially in cases where the Government are directly or indirectly interested, although there are other grounds too, namely, Indian ladies are not accustomed to bring such cases before any Court, and it will be an utter impossibility to name and identify unknown accused person or persons in a general riot in which innumerable *goondas* take part. However that may be, it is not a very important point here.

As to the clause itself, I shall be very brief. I only submit that if the Government will insist on this clause, it will remove even the least faith that still remains in the minds of some people about British justice. If a person deserves to be imprisoned, let him be by all means, but you should see that no miscarriage of justice is committed in the name of speedy trial. What is the harm if the man is sent to prison today or one month hence after the public have been satisfied that the accused person has been given a fair trial? With these words, I support the amendment.

***Mr. S. G. Jog (Berar Representative):** Sir, I had no mind to go into the velocity of this terrorist movement; whether the terrorist movement is good or bad, I have no mind to enter into the details. The Bill has been passed by the Bengal Legislative Council, and I do not wish to enter into the merits of that question at all, but I think I shall be failing in my duty if I do not rise and have a sort of revolt against the measure that is before the House in respect of clause 5. It is no doubt true that the Honourable the Law Member has suggested three alternatives which say that the operation of section 107 of the Government of India Act will

**Speech not revised by the Honourable Member.*

not be affected, or some such thing. I do not think that any such alternatives are necessary. The powers which the High Courts have will still be there in spite of the alternative suggestions by the Honourable the Law Member. So there is no point in making all these three alternatives and trying to minimise the effect of clause 5 which finds place in this Bill. There has been a tendency recently in all these emergency or summary legislations to take away the powers of the High Courts. As was just observed by my Honourable friend, people in this country have been gradually losing faith in the Magistracy of British India, but people have not as yet lost their faith in the High Courts established in India, and the only hope that the public at large still have is to get justice at the hands of these High Courts Judges, but from the attempt that is sought to be made by these alternatives it would appear that the executive Government are rather afraid of these High Court Judges, and I should think it is the executive Government who have lost faith in these High Court Judges, because if any wrong is done by the executive authority, there is every chance of its being remedied in the High Court which probably the executive authorities do not want. I think clause 5 is virtually a sort of no-confidence motion in the High Courts established in India. The whole foundation of the British Empire is based and it still remains on British justice and British fairplay. If by such measures as these, you want to take the powers of the High Court, if you want to interfere with the powers of the High Courts, I think people will be justified in losing all faith in British justice and British fairplay. It is no doubt true that you say in your Notes on Clauses that:

"The provisions of this clause are not capable of enactment by the local Legislature in so far as they affect the jurisdiction of the High Court. They exclude interference of a nature likely, if exploited, to diminish the efficacy of action taken under the local Act, and are intended to ensure the speedy trial of terrorist offences"

I do not think there is any sense in the observations made here. If appeals are made to the High Courts, I do not think they will take more than a month or so to decide them, and even if the matter is delayed for the sake of justice; that will not matter at all. That delay is absolutely necessary, and whatever the measure is, if you want to proceed in the name of ensuring speedy result or for any other object, I think we on this side of the House are not prepared to agree to the retention of clause 5. I wholeheartedly support that clause 5 should be deleted, and the ordinary powers that are vested in the High Courts should be allowed to have their fair play. Rightly or wrongly the Act is there, and we have to submit to it, but at the same time any encroachment upon the powers of the High Courts, I think, we on this side of the House are not prepared to concede. With these words, I support the amendment that clause 5 should be deleted.

The Honourable Mr. H. G. Haig (Home Member): I could have wished that my Honourable friends, the Leader of the Independent Party and Mr. Lalchand Navalrai and other learned Honourable Members, had spoken before the Honourable the Law Member had addressed the House, for their learned arguments deserve equally learned replies. Unfortunately, on this side of the House we have not at our disposal the same wealth of legal talent that distinguishes the opposite Benches. They must, therefore, I am afraid, be content with the reply of a layman.

[Mr. H. G. Haig.]

There seems to be some misunderstanding as to what we seek to do by this clause. We do definitely propose to take away the powers of the High Court as conferred by the Criminal Procedure Code and the Letters Patent, and to leave those general powers which are conferred by section 107 of the Government of India Act. Now, Sir, we do not concede that what we are doing will be without any effect. We think that in fact the result of this clause will be to prevent those dilatory motions which frequently are made in the course of trial for the sake of delaying disposal of cases, and that in various other respects the multiplicity of proceedings which characterise our present legal procedure will be shortened. For that we consider that there is very full justification. Most of the Honourable Members who addressed the House—except Pandit Satyendra Nath Sen—most of the Honourable Members who addressed this House omitted to remark that this procedure was directed against a particular class of offences, a limited class of offenders. The argument, as it was addressed to the House from the other side, it seemed to me, was a general argument very suitable if we had been proposing to amend our normal procedure. But we are not proposing to amend our normal procedure, but only in certain special cases to speed up the decision of trials. Those cases are defined in the Bengal Suppression of Terrorist Outrages Act—cases in which there are reasonable grounds for believing that any person has committed a scheduled offence in furtherance of, or in connection with, the terrorist movement. It has been suggested that the powers that are conferred on the Magistrates are excessive, because the revisionary power of the High Court is being curtailed. But, Sir, the substantial rights of the accused remain. The accused has a fair trial under normal procedure before a Magistrate, and in every case he has a right of appeal, whether it is to the Court of Session or to the High Court. That being so, we consider that there is no danger that he will not get in fact substantial justice. Sir, I oppose the amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question which I have to put is:

"That clause 5 of the Bill be omitted."

The Assembly divided:

AYES—28.

Abdul Matin Chaudhury, Mr.
Abdur Rahim, Sir.
Azhar Ali, Mr. Muhammad.
Bhuput Singh, Mr.
Chetty, Mr. R. K. Shanmukham.
Dutt, Mr. Amar Nath.
Gunjal, Mr. N. R.
Ibrahim Ali Khan, Lt. Nawab
Muhammad.
Ismail Khan, Haji Chandhury
Muhammad.
Isra, Chaudhri.
Jadhav, Mr. B. V.
Jog, Mr. S. G.
Lalchand Navairai, Mr.
Misra, Mr. B. N.

Mitra, Mr. S. C.
Muazzam Sahib Bahadur, Mr.
Muhammad.
Murtuza Sahib Bahadur, Maulvi
Sayyid.
Parma Nand. Bhai.
Ranga Iyer, Mr. C. S.
Reddi, Mr. P. G.
Reddi, Mr. T. N. Ramakrishna.
Sarda, Diwan Bahadur Harbilas.
Sen, Mr. S. C.
Sen, Pandit Satyendra Nath.
Singh, Mr. Gaya Prasad.
Sitaramarai, Mr. B.
Thampian, Mr. K. P.
Uppi Sahib Bahadur, Mr.

NOES—56.

Abdul Rye, Khan Bahadur Abdul
Hasnat Muhammad.
Agot, Mr. A. S. V.
Ahmed Nawaz Khan, Major Nawab.
Allah Bakh Khan Tiwana, Khan
Bahadur Malik.
Amir Hussain, Khan Bahadur Saiyid.
Anklessaria, Mr. N. N.
Anwar-ul-Azim, Mr. Muhammad.
Bajpai, Mr. G. S.
Bhore, The Honourable Sir Joseph.
Bower, Mr. E. H. M.
Burt, Mr. B. C.
Dajal, Dr. R. D.
Dudharia, Mr. Nabakumar Sing.
Dunn, Mr. C. W.
Dutt, Mr. G. S.
Fazal Haq Piracha, Shaikh.
Fox, Mr. H. B.
Greenfield, Mr. H. C.
Gwynne, Mr. C. W.
Haig, The Honourable Mr. H. G.
Hezlett, Mr. J.
Hudson, Sir Leslie.
Ismail Ali Khan, Kunwar Hajee.
Jawahar Singh, Sardar Bahadur
Sardar.
Lal Chaud, Hony. Captain Rao
Bahadur Chaudhri.
MacKenzie, Mr. R. T. H.
MacQueen, Mr. P.
Meek, Mr. D. B.

Metcalf, Mr. H. A. F.
Mitchell, Mr. D. G.
Mitter, The Honourable Sir
Brojendra.
Moore, Mr. Arthur.
Morgan, Mr. G.
Mujumdar, Sardar G. N.
Mukherjee, Rai Bahadur S. C.
Nayudu, Rao Bahadur B. V. Sri Hari
Rao.
Noyce, The Honourable Sir Frank.
Pandit, Rao Bahadur S. R.
Rafiuddin Ahmad, Khan Bahadur
Maulvi.
Rajah, Rao Bahadur M. C.
Rajan Bakhsh Shah, Khan Bahadur
Makhdum Syed.
Rastogi, Mr. Badri Lal.
Rau, Mr. P. R.
Ryan, Mr. T.
Schuster, The Honourable Sir George.
Scott, Mr. J. Ramsay.
Sher Muhammad Khan Gakhar,
Captain.
Singh, Kumar Gupteshwar Prasad.
Singh, Mr. Pradyumna Prasad.
Sorley, Mr. H. T.
Suhrawardy, Sir Abdulla-al-Mamun.
Tottenham, Mr. G. R. F.
Wajihuddin, Khan Bahadur Haji.
Yakub, Sir Muhammad.
Yamin Khan, Mr. Muhammad.

The motion was negatived.

The Honourable Sir Brojendra Mitter: Sir, I beg to move:

"That at the end of clause 5 of the Bill, the following *Proviso* be added:

'Provided always that nothing herein contained shall affect the powers of the High Court under section 107 of the Government of India Act.'

This amendment is necessitated by the ruling which you gave the other day and in order to clear all ambiguity with regard to what we are doing—that we are not doing anything to interfere with the powers which Parliament has conferred upon the High Court.

I do not see my Honourable friend, Raja Bahadur Krishnamachariar, here. He is under the impression that under section 107 of the Government of India Act, the High Court has only administrative powers of superintendence. Sir, that argument was adduced before the Bombay High Court in what is known as the Sholapur case and the Chief Justice held that the powers of superintendence were not limited to administrative matters, but extended to judicial matters, so that, under section 107, the High Court could exercise powers of revision. In what cases they would exercise those powers, that is for the High Court to decide. That is the point I made when I interrupted Sir Abdur Rahim, that it was not our function, but it was the function of the High Court to interpret the word "superintendence", what its scope or extent is. Recently, a similar case arose in Calcutta. The Chief Presidency Magistrate convicted a person and he went up to the High Court under section 107. The Chief Justice

[Sir Brojendra Mitter.]

of Calcutta exercised powers of revision and set aside the conviction. Sir, I am not in a position to state the exact scope and extent of the powers under section 107. There is one word more I should like to say. I find there is an amendment tabled by Sir Muhammad Yakub. If he moves that amendment, I for my part will be willing to accept it, and if that amendment is accepted along with mine, it will completely meet your ruling. Sir, I move.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That at the end of clause 5 of the Bill, the following *Proviso* be added:
'Provided always that nothing herein contained shall affect the powers of the High Court under section 107 of the Government of India Act.'"

The motion was adopted.

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions: Muhammadan Rural): Sir, I move:

"That in clause 5 of the Bill, the words 'by whatsoever authority made or done' be omitted."

The chief objection to this clause has been that the words "by whatsoever authority made or done" might be interpreted as meaning that this clause is purported to take away the power which is vested in the High Courts by the Government of India Act, or by some other enactment over which this House has no authority. In order to remove all these misapprehensions, I move that these words be deleted. It does not require a long speech from me. I move my amendment.

Mr. Lalchand Navalrai: I fully support this amendment. As it is, the clause is wide and liable to mischief. Therefore, I support this amendment.

The Honourable Mr. H. G. Haig: As explained by my Honourable colleague, the Law Member, Government are prepared to accept this amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in clause 5 of the Bill, the words 'by whatsoever authority made or done' be omitted."

The motion was adopted.

Clause 5, as amended, was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

The Honourable Mr. H. G. Haig: Sir, I move that the Bill, as amended, be passed.

Mr. Amar Nath Dutt (Burdwan Division: Non-Muhammadan Rural): Sir, we have been asked to supplement the Bengal Suppression of Terrorist Outrages Bill.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Will the Honourable Member please resume his seat? The Chair would like to know whether there are any other Honourable Members who wish to speak on the third reading.

(About four or five Honourable Members rose.)

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The House will now adjourn to Half Past Two.

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

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

Hon. Captain Rao Bahadur Chaudhri Lal Chand (Nominated Non-Official): Sir, with your permission, I want to give a personal explanation. On Monday, the 12th, I was unfortunately absent from this House owing to an unavoidable circumstance, and, in my absence, while the Honourable Pandit Sen was speaking, he made certain insinuations while interpreting my interjection in Mr. Mitra's speech. He asserted that the Bill may not be misapplied in Bengal and gave instances of brutality in Bengal where he alleged, even the chastity of females was being violated in a most brutal and vindictive manner. He further said that when these things were being narrated the other day by Mr. Mitra, one of the Nominated Members (meaning myself) interjected by saying: "Is there no rent campaign going on there?" He further said: "The Honourable Member evidently wanted to suggest that rent or taxes could be and should be realised by violating female modesty". The interpretation put by my Honourable friend, Pandit Sen, on my interjection was not warranted by facts and was wholly misleading and unfounded. I have got a copy of the report of the proceedings of the 3rd December which contains the speech of Mr. Mitra. His speech appears on pages 2850-55. On page 2852, after narrating certain incidents in which the chastity of women was attacked, the Honourable Member proceeded as follows:

"Now, I shall deal with cases of wanton destruction of property."

This appears on page 2852 of the report. He then narrated ten instances where property had either been taken away, destroyed or attached according to his narration. In the third paragraph of those narrations, he quoted an instance where, for the realisation of a tax, which amounted to Rs. 24-9-0, paddy weighing 320 maunds were taken away. It was after ten instances that I made the interjection that was referred to by the Honourable Pandit Sen. All these instances related to property only and not to the violation of the chastity of women or attack on women at all. There is not a word even with regard to the presence of females in those 50 lines wherein the Honourable Mr. Mitra described those 10 instances relating to property only. I naturally felt that a man who was possessed of 320 maunds of paddy which was worth over a thousand rupees should be in a position to

[Hon. Capt. Rao Bahadur Chaudhri Lal Chand.]

pay Rs. 24-9-0, as his tax, and if he did not pay it, then it meant that he was not willing to pay it and, therefore, I interjected and asked: "Why are people not paying this small tax when they have got this property?" That was my meaning. I never went further than that and the interpretation put by my Honourable friend, Pandit Sen, on this interjection is wholly unwarranted. Before I sit down, Sir, I have to thank you for allowing me this opportunity of explaining my position and I hope my friend, Pandit Sen, also by now must have seen the report and will now withdraw his remarks. (Applause from Official Benches.)

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Chair has taken the trouble to look into the proceedings which led to the remark which the Honourable Member (Pandit Sen) made on the previous occasion. While the Chair stands for the freedom of speech in this Assembly, it cannot allow such unwarranted and unfounded allegations to be made by one Honourable Member against another Honourable Member. The Chair is satisfied that the inference drawn by the Honourable Member, when Mr. Mitra was interrupted, was wholly unjustified. The Honourable Member should have realized that the interruption which was "Are these instances of operations during the no-tax campaign", was merely for obtaining information. The Chair, therefore, calls upon the Honourable Member (Pandit Sen) to express his regret to the Honourable Member for having made those remarks.

Pandit Satyendra Nath Sen: Sir, I beg to submit and to assure my Honourable friend particularly that nobody in this House will be more glad than myself to know and to see that the remark made by him on that occasion referred only to the breaking of furniture, etc., and not to the other series of mischief referred to there. I am very glad to assure my Honourable friend that he did not mean what I supposed he did. I express my regret and I shall shake hands with him when I meet him.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member should also withdraw his remarks.

Pandit Satyendra Nath Sen: I withdraw my remarks, Sir.

Mr. Amar Nath Dutt: We have been asked to pass a Bill which is entitled a Bill to supplement the Bengal Suppression of Outrages Act, 1932. Sir, it has passed its first and second reading and it has also been amended by the Movers of the Bill themselves. My Honourable friend, the ex-Speaker, has also amended certain clauses. Sir, the very title of the Bill takes one's breath away, because we have been asked to supplement an Act which has now become the law of my unhappy province which is the very negation of law. I may at once say what I mean. In Bengal, people are not living under the rule of law. I see Honourable Members not belonging to this land and who have no right to be in this land laughing. They will laugh, no doubt, because it is certainly a thing of happiness if one can be where he has no right to be and enjoys his life at other's expense. But, after all, if they had some good sense still left in them, they would have been more careful to hide their laughter and express regret. Be that as it may, I merely submit, if the whole world were for the passing of this Bill of my Honourable friend, the Home Member, I alone shall stand against him

Sir Abdulla-al-Māmūn Suhrawardy: *Contra mundum*—against the whole world!

Mr. Amar Nath Dutt: *Ambulando* and such other Latin phrases may be sonorous, but I confess I have no knowledge of Latin. If I were to give before this House what we have been asked to supplement, I think no sensible man will ask us to supplement an Act like this. The Bengal Terrorists Suppression Act, which has now become law and to supplement which we are legalising here, consists of not less than 34 sections

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member must remember that the Bengal Act is not before the House and, therefore, any detailed discussion of the Bengal Act is not in order.

Mr. Amar Nath Dutt: I will not have a detailed discussion, but I will have to state things about it in order to bring out my points with reference to this Supplementary Act; and if that is not permitted

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Chair never stands in the way of Honourable Members giving full expression to their views. There are only one or two sections of that Act which are proposed to be supplemented. This Bill proposes to supplement those provisions of the Bengal Act which deal with legal procedure; and the Honourable Member is entitled to refer to them only. The merits of that Act cannot be discussed here.

Mr. Amar Nath Dutt: With due respect to the Chair, I may submit, that this Supplementary Act deals with respect to appeals and

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Exactly: the legal procedure.

Mr. Amar Nath Dutt: and in speaking about appeals, certainly I will have to incidentally touch on matters about which the appeals shall lie and I trust the Chair will allow me to refer to that extent

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Anything that arises out of this Bill is relevant—nothing more.

Mr. Amar Nath Dutt: I must first thank the Honourable the Home Member as also the Law Member for kindly incorporating clause 3 in the Bill with which I am in full agreement; and, in fact, the Statement of Objects and Reasons which the Honourable Mr. Haig has given would at once lead us to think that it is only because the Bengal Government have no power to pass legislation which affects the jurisdiction of the High Court of Judicature at Calcutta that it is necessary to supplement that Act by an Act of the Central Legislature, to provide for appeals to the High Court in certain cases: and to exclude their jurisdiction in other matters and, as they say, the sting is in the tail, and I would have been indeed more grateful to the Honourable the Home Member if this small line had not been there. If I rise to oppose this, it is only because of that small line which has given birth to clauses 4 and 5 in the Bill before the House. About these two clauses, there were amendments to delete. I submit, it would have been well if the Government had seen their way

[Mr. Amar Nath Dutt.]

to accept the amendments and thereby to get unanimous support to a Bill for which in certain respects they deserve our grateful thanks. But what he gives in one hand, he takes away by another. Clause 3 provides for appeals. I do not know who is responsible for the framing of the draft of this clause, but here I find a little partiality shown to the Presidency-town of Calcutta which is the town of my Honourable friend, the Law Member; but he has not shown the same consideration to towns to which we humbler folks belong; and here we find in clause 8, they say, that any sentence passed by a Special Magistrate in any trial held under the Local Act in the Presidency-town of Calcutta, all appeals shall lie to the High Court; while not so in the case of all sentences passed by Special Magistrates in the mufassil. Of course this is probably a natural bias for one's own town.

The Honourable Sir Brojendra Mitter: In Calcutta there is no Sessions Court; therefore, all appeals must go to the High Court.

Mr. Amar Nath Dutt: So, at times, one may be surprised; had that not been so and we in the mufassil had been given this right, there was nothing to debar him from extending the same rights which his own fellow citizens will enjoy in the Presidency-town of Calcutta and that would not have been illegal. However, I will not grudge him this right for his City; and, in spite of that, I say, that we have no objection to this; but if I rise now to oppose the passing of the Bill, it is because of these two other clauses, namely, clauses 4 and 5 which take away the rights of the injured people to have indemnity for wrongs inflicted on them by clause 4. Already the Government servants and officers know that they are exempt from all punishment. They are immune and they know that from the highest to the lowest all will come to the rescue if any complaint is made against them. That being so, to give them an assurance from before the commission of an act of aggression and tyranny and to say "Do whatever you like; there is no power on earth which can touch a hair of yours", will it not encourage more lawlessness in the ranks of those who are expected to keep law and order? I do say with emphasis that the lawlessness of the present day Government officers is almost unbearable, beginning from legislative acts which is lawless legislation, to executive acts. That being so, I submit that in spite of clauses 2, 3 or 1, I am unable to acquiesce in the passing of this Bill.

With regard to clause 5, much legal argument has been advanced on both sides by eminent lawyers like my Honourable friend, the Law Member, and an *ex-Chief Justice* of the High Court, and I will not waste the time of the House by dealing with the *ultra vires* nature of clause 5, but let me point out that the Government will lose nothing if they do not retain clause 5; on the other hand, by deleting this clause, they will keep some vestige of British justice in the land. I do not know whether they will care to do this, but I may repeat again that they will lose nothing if they delete clause 5. Further, Sir, by the enactment of this law, I may say, the terrorists will not gain or lose anything either, because the whole trend of this Bill is this. You assume in the first instance that particular individuals are terrorists according to your idea, you presume before hand, before trial, and then, according to the Act which you are supplementing, you form a Bench of Special Magistrates. It is pre-judging the case. I submit, that this is a procedure unknown to any

civilized system of judicial administration in any land, not to say of that land from which the Honourable the Home Member comes and for whose judicial system we all have the highest respect and admiration. It has often been a source of regret to us that Englishmen who are fond of liberty and freedom in their own homes should become otherwise as soon as they cross the English Channel, and this is more noticeable in their administration of India than elsewhere. I will again ask them as Englishmen to remember the land of their birth, its traditions, and its history and not to enact laws which are not in conformity with the ideas and traditions of their own land. If I am appealing to my English friends, it is because I want to point out that an Act like this was not introduced in England even under that regime known as Dora. That being so, it will be too much for friends over there to expect Members on this side to support an enactment which belies all civilized system of jurisprudence. With these words, I oppose the passing of this Bill.

Mr. S. O. Mitra: Sir, I agree with my friend, Mr. Amar Nath Dutt, in opposing the passing of this measure. We have made our viewpoint clear, and I repeat it again today, that we do not think drastic legislation is any remedy for the political distemper that now obtains in the province of Bengal. We have been asked not merely to be destructive in our criticisms, but even to suggest any remedies we could think of. I have said that the best remedy to fight terrorism is a clear declaration from Government that India will have full Dominion Status on the conclusion of the R. T. C., that there will be at least Central Responsibility, whether there is any Federation or no Federation to begin with. From the line of action that is being taken, as it is reported from day to day in the press, it would appear that the R. T. C. is more anxious to extend the Ordinance regime not to six months but to keep it permanently, and this will certainly not help in easing the situation in India. The other thing is, my friend, Mr. Sen, asked yesterday, that the rule of law should be fully established, and that is particularly the reason why we are fighting this particular piece of legislation by which the right of appeal to the High Court will be denied in future.

Sir, we know that we have a constitutional right in criminal cases to appeal to the Judicial Committee of the Privy Council. So far as I remember, never was any Indian applicant successful in getting any remedy, yet it is known how Indians still value this constitutional right that in extreme cases, not only in Civil, but in Criminal cases also, they go to the Privy Council. So it is no use arguing that you will not be curtailing the liberty of the High Court, and as the Honourable the Home Member stated in his speech the other day, the High Courts will not even entertain these applications, yet this is a right, and there is no reason why it should be curtailed by any Legislature. It has been repeatedly said that the object of speedy trial will be achieved when the Special Magistrates finish the trials. It is only a question of appeal, and so why should there be this suspicion, why should you have legislation after legislation in this House? There is some provision like the Indemnity Bills that follow martial law that the jurisdiction of the Courts, both Civil and Criminal, should be barred. If necessary, and if time will permit, I shall quote from authorities from all lands to prove how jealously the independence of the Courts has been guaranteed in the constitution of all countries. The other remedy that is not strictly relevant in this connection is about the exploitation of India. I shall not go in detail on that matter, but I shall

[Mr. S. C. Mitra.]

only say that the main reason why terrorism is making such rapid strides in this unhappy land is because of the extreme poverty, the starving condition of the vast masses of the people. There is no occupation for the educated unemployed, and it is in the interests of the Government to see that the cow that supplies the milk is not killed for the mere enjoyment of having good meat for a day or two. India has tolerated every kind of government so long as she had enough to eat and clothe her nakedness, but now we have reached the extreme limit. I have digressed from the main subject, and so I leave it at that.

It has been asked, what is the true remedy for terrorism, and I tell the Government what that true remedy is. It is very easy to get palatable words and Government have enough of them from many of my friends here, but as statesmen the Government should bear with us when we draw their attention to the other side of the picture. What policy have the Government themselves got in respect of this terrorism? In Bengal, we have hundreds of young men, brilliant graduates who, in any other country, where there are manufacturing industries opened, would be well employed, but India being a wholly agricultural country, provides no scope for those youths even to get sufficient food and clothing. These young men are kept in prison for months and years, and in some cases, with only a few months' interval, they are 10 or 12 years in prison, and what plan have the Government to settle them in life? Do they realise that some day these young men shall have to be let loose on the community? Will they not add to the bitterness in the minds of these young men if they are now clapped in jail for years on mere suspicion? You will be surprised to hear that even interviews are not allowed to these young men. I personally have been refused an interview, and, again, though I have applied to the Government of Bengal some two months ago, still they do not condescend even to reply whether they will grant the interview or not. Even though we try by these interviews to argue with these young men and make them understand that in a difficult situation Government have to take to drastic laws, what plan have the Government themselves got? My Honourable friend, Mr. Sen, suggested that there should be some sort of Committee like the Rowlatt Committee to go deeper into the root causes of this terrorism. But every time the Government have got only one remedy, and that is to bring in more and more drastic laws. As I said before, I repeat what I have said. Let them have martial law or even worse than that for some time and finish with it. But when they fail, why should not they give us a chance of trying in our own way?

There is another point to be considered. Take the case of my old teacher and friend, Sir Abdulla Suhrawardy. I know that in 1912 or 1918, he was under police suspicion, and he was about to be put under Regulation III, but he was saved by the then Governor of Bengal, Lord Ronaldshay, who had great esteem for his literary attainments. At that time, I know that even from the Government of India there was pressure on the Calcutta University, and it required all the strength of a man like the late Sir Ashutosh Mukerjee to prevent his being sent out from the Professorial Chair. I remember it well. It was Mr. Sharp, the then Secretary of the Education Department, who said that men like the late Mr. Rasul, Mr. Abdulla Suhrawardy, and Mr. K. P. Jayaswal must be removed from the professorships. But, by good treatment and consideration, Sir Abdulla Suhrawardy has recently been dubbed a Knight, and he is one of the

ornaments of this House. (Sir Abdulla-al-Māmūn Suhrawardy: "He is still under police surveillance.") But that is the fate even of Governors, and so he cannot much complain about it.

As regards the treatment that is meted out to these prisoners in jail, an accused can be sentenced even to seven years' imprisonment by a Special Magistrate. In the case of these political prisoners, it is harder than in the case of ordinary prisoners. There is a rule in the Jail Code that prisoners with more than five years' term, if they behave well during more than half the period, should have their sentence reduced by half. But, to our surprise, in the case of political prisoners, it has all along been denied. Everybody in this House knows that a life sentence means 20 years, but when the prisoners are transported to the Andamans or outside India, the period is 14 years. But all these rules are not applied to political prisoners. I can give instance after instance, but I refrain from doing so, because there is no time to do it.

Then, the hardships of these political prisoners about classification are well known. When this House agreed to classification, after consultation with the Leaders of Parties in the House, the Home Department decided that in classification the motive of the crime should not be taken into consideration, but that the status of the prisoner, his education, mode of life,—all these should be the criteria, but in the case of political prisoners, from whatever station in life they come,—they may be respectable, ladies, or Members of the Legislature, even of the Central Legislature—they hardly get "A" class. That shows that the Government are vindictive in administering this law. Nothing will be attained by vindictiveness or by drastic laws. Government may congratulate themselves on the fact that they have controlled the Congress, that they have controlled Gandhiji's action. In this House, times without number, the Home Member said that the Congress adopted the resolution commending Bhagat Singh's action. What the Congress did for the people and for the Government during the last 45 years is all forgotten, and only one fact is remembered. Even in that case, let it be said to their credit, that the Congress condemned the action of the political bomb thrower, though it said that his object was a noble one.

Coming back to the original point about the rule of law, on which ground I object to the passing of this Bill, I say, by all means have a speedy trial against the political assassin. But why should not the same strong hand of the law be applied against the policeman who also kills unarmed men? What happened at Hijli? Santosh Kumar Mitra and another detenu

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Chair does not wish to interrupt the Honourable Member, but wishes to point out again, as it has pointed out to Mr. Amar Nath Dutt, that this Bill deals with the legal procedure in supplement of the Bengal Act, and the Honourable Member will please restrict himself to that issue.

Mr. S. C. Mitra: I bow to your ruling, Sir. Because the powers of the High Courts are sought to be curtailed, I wanted to show how the powers of the Courts are being curtailed in every possible way and the rule of law has become a mere farce in this unhappy country. With these words, I conclude my observations.

Mr. B. Gharamaraju (Ganjam cum Vizagapatam: Non-Muhammadan Rural): This Bill deprives the High Court of a large measure of power

[Pandit Satyendra Nath Sen.]

prisoners also, who are certainly not in the good books of Government, will be channelled under this Act—I should call it an infernal Act,—which will be regarded by Government as a royal road leading to the gates of Purgatory and, with these certificates to their credit, those youngmen will at some later date be sent up to Paradise without much difficulty. Sir, we are utterly helpless and we look up to God for help. We put our faith in Him and wait. With these words, Sir, I oppose it.

The Honourable Mr. H. G. Haig: Sir, the arguments for and against this Bill have been very fully stated and we have discussed the causes and the remedies of terrorism. I do not propose to traverse that ground again. So far as I am concerned, I have nothing fresh to say to the House. Now, Sir, some of the Honourable Members who have spoken this afternoon have suggested that this Bill is contrary to natural justice and that it is inconsistent with any civilised system of judicial administration. I would just like the House to reflect that the procedure under this Bill consists in cases being tried by specially selected Magistrates not one of whom have had less than four years' experience as First Class Magistrates, and that in every case an appeal is allowed either to the Court of Session or, in the more important cases, to the High Court itself. The High Court is not excluded except in certain matters. There is in all the more important cases an appeal to the High Court.

Now, Sir, the Honourable Member who has just sat down, Pandit Satyendra Nath Sen, said that this Bill and the Ordinance Bill were measures by which the Government intended to fight the people. Sir, this measure, as I said in an earlier speech, is a small but essential link in the chain of action required for the suppression of terrorism and I do not believe, Sir, that the people of this country stand for terrorism.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

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

The motion was adopted.

THE INDIAN TARIFF (OTTAWA TRADE AGREEMENT) AMENDMENT BILL.

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

"That the Bill further to amend the Indian Tariff Act, 1894, for certain purposes, as reported by the Select Committee, be taken into consideration."

There are a number of amendments on the notice paper and I do not propose at this stage to do more than to say that the unanimous report of the Select Committee is, I submit, conclusive evidence of the extent to which the Government were prepared to go to meet reasonable representations of my friends on the other side of the House.

Sir, I move.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Motion moved:

"That the Bill further to amend the Indian Tariff Act, 1894, for certain purposes, as reported by the Select Committee, be taken into consideration."

Mr. B. Sitaramaraju (Ganjam cum Vizagapatam: Non-Muhammadan Rural): Sir, at the very outset I must thank the Honourable the Commerce Member for the consideration and courtesy which he showed to us in the Select Committee. But some of us who were opposed to the principle underlying this Bill could not discuss it in the Select Committee. With your permission, we propose to discuss the principle underlying this Bill only at the third reading of it. Sir, we have tried our best as regards the proposals underlying this Bill to see how far we could contribute to mitigate what we consider some of the evils of this measure. Within the scope allowed to us in the Select Committee, we have tried our best to adjust the margin of preference.

A perusal of the Report of the Select Committee will show that we were working under two handicaps. One was the decision of the Legislative Assembly to guarantee the stipulated margin of ten per cent. to the United Kingdom and the Empire countries and the other was the incomplete statistical information we were given as regards the industrial production in the country. To these two handicaps, I must add that we had another difficulty. That difficulty was the want of information from the Indian industries themselves. Only a few of the Indian industries were able to represent their cases either in person or by correspondence. But, in the majority of cases, we have had no information at all as regards the need and the extent to which they would require the protection. To these three handicaps I must add that we had to face two more handicaps. One was the financial difficulties and the other was the administrative difficulties. The financial difficulties were that the Customs revenue, which is the mainstay of our Budget, had to remain intact and the administrative difficulties which we had to take into consideration were the difficulties which would present themselves in the Customs houses where the Customs officers have to distinguish between the articles to which preference has been given and those to which preference is not given. Further, they had also to distinguish these articles and to determine articles liable for preferential treatment by applying rules to be now made to determine Empire contents. Under these circumstances, we endeavoured our level best to see whether the four interests which should be safeguarded, namely, those of the consumer, the taxpayer, the industrialist and the agriculturist, were adequately safeguarded. In several matters, the interest of one was in conflict with the interest of the other. Subject to the limitations I have already mentioned, we tried to adjust the margin of preference.

I always felt that this was a matter for a Tariff Board Inquiry and now I am convinced more than ever that such an inquiry ought to have been held as a condition precedent to the acceptance of the scheme, because unless we have a thorough inquiry into the matter where business houses are examined and where every information that can be brought to bear upon it is collected, and where we can possibly give such reasonable protection as our industries stand in need of, anything that we might do might render the whole thing a mere farce. Holding that opinion, I appeal at this stage to the Honourable the Commerce Member and the Government of India that they do proceed to make a full compilation of all such industrial production in the country at least, so that it may be possible for the Committee which, under the direction of this Assembly, is to be constituted, to watch the effect of this margin of preference and

[Mr. B. Sitaramaraju.]

which they have been exercising hitherto. If, under section 107 of the Government of India Act, the powers which the High Courts possess are exempted from the operation of this Act, it is not due to any consideration on the part of the Government, but on account of the ruling which, Sir, you gave the other day that it was not within the competence of this Legislature to deprive the High Courts of their powers under the Government of India Act. Besides the powers, which the High Courts have under section 107 of the Government of India Act, the other powers that they have are also very substantial powers and this Bill seeks to deprive them of those powers. I submit that a few months ago, when the Honourable the Law Member and we were discussing the very powers of the High Court under this section, the Law Member had himself said that it would be repulsive to any member of the legal profession to see that such powers of the High Courts were deprived. I share the same feeling, because, being a lawyer myself, I cannot but view with great abhorrence any attempt to deprive the High Courts of those powers, but I cannot agree with the Law Member as regards the necessity of taking away those powers now. Notwithstanding the assurances given by the Law Member that they held the High Courts in great esteem and that if they today found themselves driven to deprive the High Courts of those powers it was not because they held the High Court in less esteem, but because they said that there was an overriding necessity for speed. As you are aware, under the altered Bill, the High Courts still have the powers of superintendence under section 107 of the Government of India Act. I would like to ask the Government whether the powers that they have under this section would constitute in any way a greater delay than the powers which the High Courts can exercise under section 107. When once the point was conceded that it was not competent for us to deprive the High Courts of powers under section 107, and when we consider that those powers could and will be exercised, we must take into consideration also the fact that similar powers reserved under another Act could not be disposed of, because, by depriving them of those powers, the Government could not attain their object of speedy execution of law and order any more than what they have done. Therefore, I consider that this is merely an apology to say that they are going to have these powers taken away, because they want to attain speed. I consider that the real cause is that the Government are evidently unable to substantially prove the cases against some of these criminals and that they are afraid of the scrutiny of the High Courts. That seems to me the only explanation for depriving the High Courts of powers, because we know that the High Courts in this country have established a great reputation for themselves for their impartiality and even handed justice and that they are the only bulwark of a subject nation like ourselves to seek redress against executive wrongs. To take away that power today would only show that the Government are incapable of proving the guilt of the persons charged and are actually afraid of the scrutiny of the High Courts. Nobody denies the right of the Government to defend themselves and to protect the lives of the people. Nobody would say that Government should not take such action as is necessary for that purpose. They would be failing in their elementary duty if they did not protect the lives of the people. But, while we agree that the guilty should be punished, we are equally anxious that the innocent should not be punished. What security can we have other than

these powers of the High Courts to see that the innocent people are not made the victims of executive actions? Lawlessness is not a remedy for lawlessness. I believe that more outrages have been committed against Europeans under the Ordinance regime than before it. There must be some cause. What is that cause? Unless the Government can give security to the citizen that even handed justice will be done, it will be impossible for a subject nation to feel any respect for the law which they administer and if the Government are really sincere, I would like to ask this. The Ordinance Bill which we have passed would only come into force next year. During all these months, the Government of India have not elicited the opinion of the High Courts as regards these powers and when some Honourable Member on this side of the House suggested that the High Courts should be asked to express their opinion on this matter, it was refused. When the Ordinance Bill itself is to come into force next year and when it is quite possible for them to get the opinion of a few High Courts within a month or two, what necessity is there that this Bill should be passed immediately and why it should not wait till the beginning of the next year and be passed along with the Ordinance Bill if it is deemed necessary? Therefore, I consider that there is no point in saying that this Bill should be passed immediately. No case has been made out for depriving the High Courts of their powers to the detriment of justice. In these circumstances, I would be justified in opposing this motion.

Mr. N. B. Gunjal (Bombay Central Division: Non-Muhammadan Rural): (Speaking in the Vernacular, the Honourable Member opposed the motion.)

Pandit Satyendra Nath Sen : Sir, I rise to oppose the motion, although, as we see clearly, the Bill is going to be passed. This, Sir, is another illustration of the so-called "fair fight" of which the Honourable the Home Member spoke the other day and to which I made a reference in one of my previous speeches. These "fair fights" are now a frequent occurrence on the floor of this House. But those fights are between two parties placed under two totally different circumstances. On the one side, there is a band of devoted stalwarts assisted by allies won over from the opposite camp and under the able guidance of their General, and, on the other, a party of negligent pickets who are sometimes left without their Leader and whose number has now practically dwindled to about one-fourth of their original strength, and that even weakened by feuds and factions. Sir, both the Government and the people will now be in a position to heave a sigh of relief—Government, because of the fact that they are now fortified with these two Black Bills—this Bill and its predecessor, namely, the Ordinance Bill—to fight the people successfully, and the people, in the expectation that with these increased oppressions Swaraj will come soon. What the actual result will be, only the future will show. But it is clear that there will be no peace in the country for some time to come. We tried to advise the Government according to the best of our light, but they turned a deaf ear to our advice and we have all along been arguing our case before a piece of stone.

Sir, our apprehension is that this Bill will be utilised by Government as an engine of oppression and many young persons will be made victims of this Bill. We further apprehend that many civil disobedience

[Mr. B. Sitaramaraju.]

the possible adverse effects it may have on the indigenous industries, so that they may take such suitable action as they may deem proper. I must thank the Honourable the Commerce Member for the assurance that he has given in an earlier speech that representations from any Indian industry which needs protection will receive careful consideration at his hands.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That the Bill further to amend the Indian Tariff Act, 1894, for certain purposes, as reported by the Select Committee, be taken into consideration."

The motion was adopted.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That clause 2 stand part of the Bill."

Bhai Parma Nand (Ambala Division: Non-Muhammadian): Sir, I move:

"That in clause 2 of the Bill, in part (a) of the proposed sub-section (3B), before the word 'produce' the word 'genuine' be inserted."

The object of my moving this amendment is a very simple one and, if we look a little closely into the matter, we will find that this amendment in fact admits of no difference of opinion, as I simply want to add the word "genuine" before the word "produce".

In order to explain my purpose clearly, I want to go back to pre-war days. In those days, it was a matter of common knowledge that a very large quantity of chemicals that were used for medical purposes in India were originally manufactured in Germany; they were then imported into London by English factory owners, and from there were shipped out to India for sale here. I admit that there was no idea of preference in those days; but, in its place, there was another thing, namely, the prestige of name, in so far as that, English medicines or even other articles prepared in England were looked on with special favour in India for very apparent reasons; and that the doctors in prescribing medicines gave special instructions to their patients to get English drugs. In this way, the original manufacturer, Germany, got benefit from their sale to English traders and the English traders, in their turn, after labeling these very chemicals as "made in England", sent them over to India and made their own profits.

This thing was not confined to medicines alone. In international commerce, this trick has been used very often. For instance, we know that Italy was once very famous for the manufacture of violins and its violins were sold every where at very high prices. Japan, however, made such a perfect imitation of Italian violin and sold it so cheap, that the Italian manufacturers of violins found it very profitable and convenient to buy all these violins from Japan and then labeling them as "made in Italy" sold them out to various other countries at prices, sometimes as high as ten times the original rate at which these violins were purchased from the Japanese manufacturers. What I am afraid of, is that this preference may not be abused in some such way. I do not mean to bring any charge against English producers or manufacturers of commodities, but I

want to use this amendment of mine merely as a measure of caution against any such abuse of the preferences which are likely to come in force on account of this Agreement. As far as *bona fide* English manufactures are concerned, I think we stand bound by that Agreement to give certain preference to English goods; but that does not mean that the English producers or manufacturers should take advantage of this and get things from other countries, say Japan or Germany, and resell them to us with advantage on account of the preference which they have got from us for their own goods. Therefore, where it is said that the Government of India should make rules to determine if any article is the produce or manufacture of the United Kingdom, I want the word "genuine" to be added. If that is not done, the trouble would be that India not only shall be a great loser, but shall have to compete with so many countries combined, and that our indigenous industries will not only have to give preference to English industries, but will have to subject themselves to a very hard competition practically with all the manufacturing countries of the world. To avoid this trouble, Sir, I have suggested a simple way. I do not want that we should go in any way against the trade or interest of English producers or manufacturers of commodities. And this amendment does not interfere in any way with the original principle of the Agreement; it simply aims at, as a measure of precaution, to protect Indian industries from unfair competition and the Indian trader from these international tricks that are likely to result from it. I do not want to make any further speech on the subject. The matter is so simple and clear, that I expect that the Honourable Sir Joseph Bhore, who is in charge of the Bill, would gladly accept this simple amendment of mine. Sir, I move.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Amendment moved:

"That in clause 2 of the Bill, in part (a) of the proposed sub-section (3B), before the word 'produce' the word 'genuine' be inserted."

Mr. S. G. Jog (Berar Representative): Sir, since the time this Ottawa Agreement has been introduced in this House, there appears to have been a sort of confusion all round. When the Majority Report was placed before us, we found that they had not sufficient material before them . . .

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member is not speaking on the motion for consideration now. He is addressing the House on the amendment which the Honourable Member, Bhai Parma Nand, has put before the House, namely, the addition of the word "genuine" before the word "produce".

Mr. S. G. Jog: I quite appreciate the remarks made by the Chair, but before supporting my Honourable friend's amendment, I want to make the ground clear that the whole position is still in an unsettled state, and when we proceed further and begin to work this arrangement in practice, I think we will find that the real trouble has just begun. When we start working the whole Agreement and when the time comes for collecting the several tariffs, we will be faced with the real difficulty as to how to distinguish a genuine article from a spurious one, how much percentage there is in a certain article of Empire content and how much is adulterated, and so on. What I mean to say is that the real trouble has just begun. The formal part by the passing of this Agreement might have been finished, but the real trouble will begin now.

[Mr. S. G. Jog.]

It is no doubt true that provision has been made for rule-making power in accordance with the rules made under sub-clause (3B) for the determination of the produce and its genuineness, but even before doing that, I think the word "produce" should be qualified by the word "genuine" to start with. Then the difficulties of the administration will be very much lightened. There is always a difference between the general honesty and what is known as commercial honesty, which practically amounts to dishonesty, and when this Agreement is put into operation, many business centres will try to take full advantage of the preferences without being really entitled to such preferences. All this foul business will be brought into play when we start working the Agreement in the light of the tariff that has been introduced, and the caution that has been sounded by my friend, Bhai Parma Nand, is well worth serious consideration. I, therefore, submit that the word "produce" should be qualified by the word "genuine". Of course, by implication produce really means a real or genuine produce, but in these commercial matters I think we have to be very accurate and exact, so that there may be no ground for ambiguity. Sir, I wholeheartedly support the amendment.

Mr. R. E. Shanmukham Chetty (Salem and Coimbatore cum North Arcot: Non-Muhammadan Rural): Mr. President, my friend, Bhai Parma Nand, is evidently under a misapprehension regarding the operation of the whole scheme of Empire preference. Probably he is under the impression that any commodity that comes from England will be entitled to get preferential treatment irrespective of the fact whether the commodity has been manufactured in the United Kingdom or not. Though the scheme of Empire preference is new to us, this has been in operation in other Empire countries for some years. Canada, Australia and New Zealand have, for a number of years, given preferences to the commodities manufactured in the United Kingdom, and, in all these schemes of tariff preference, a commodity does not get preference merely because it is shipped from the country to which preference is given. Every commodity which is entitled to preference must satisfy certain tests regarding what is called the percentage of Empire content. An article coming from the United Kingdom and which is entitled to preferential treatment under the present Tariff Act would have to contain a certain percentage of Empire content. In other words, the value of that commodity, taking the raw material and the cost of manufacture together, must represent a certain percentage of the raw material produced in the United Kingdom or of the cost of production in the United Kingdom itself. This was one of the important questions which was discussed at the Ottawa Conference, and it was recognised by the Delegates at the Conference that as far as it is practicable, rules relating to Empire contents must be uniform throughout the Empire countries; but what exactly must be the percentage of Empire content to qualify for preference was a matter on which there was considerable difference of opinion. Ultimately it was decided that the whole question must be examined very carefully by all the Empire countries, and I take it that the Government of India, in accordance with that Resolution, will get into communication with the other Empire countries with a view to framing rules which will be, as far as possible, uniform throughout the Empire. In the meantime, until such uniformity is established, we have probably to copy the rules relating to Empire contents which are in force in certain other parts of the Empire. Clause 2 of the Bill provides

for the making of the rules by the Governor General in Council with regard to the question of Empire contents, and I might tell my friend, Bhai Parma Nand, that under this clause the Governor General in Council will have to make rules defining the percentage of Empire content which alone will qualify a particular commodity for preferential treatment. The case that he mentioned of chemicals being purchased by a British merchant from Germany and re-shipped to India will not get a preference in this country.

Bhai Parma Nand: I said "with their own labels put on, to show that the articles were manufactured in England". That was a trick, and I want to prevent the occurrence of that kind of trick.

Mr. R. K. Shanmukham Chetty: Every commodity that is entitled to preference must be accompanied by a manufacturer's certificate certifying that it satisfies the percentage of Empire content as defined by the Governor General in Council under the rules, and I take it that the Government of India will have their own agents in the United Kingdom to check from time to time whether the certificate given under these provisions are genuine or not. Probably under the law of the United Kingdom any one who puts a false label is liable to be prosecuted. There is not the slightest danger of our being cheated in any such manner. I quite recognise that the object that my friend has in view is one which all of us have got at heart, but I would only submit to him that clause 2 which gives the Governor General in Council this rule making power is meant just to make provision for those cases which my friend has brought to the notice of this House. Under these circumstances, Sir, I would suggest to my friend that this amendment is really superfluous.

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): Sir, I support this amendment, and I am sorry I cannot agree with my friend, Mr. Chetty, who has just spoken. On this Ottawa Agreement, we are already groping in the dark. Sufficient materials are not before us or even before the Government to give us any assurance. This is a very small amendment which is meant to prevent any kind of fraud or cheating in practice. It may be that the Governor General in Council may make rules providing that certain quantities of the British materials should be certified, but the apprehended deception is not a misgiving only, but my Honourable friend, the Mover, has given instances to show that certain things are taken from other countries, imported into British Islands, and are stamped actually as coming from Britain. If there are such frauds going on, I do not understand for a moment why a precaution like this should not be taken. It will do no harm if the word "genuine" before "produce" is put in in the rules, because it will be a better check. I, therefore, fully support the amendment.

Mr. D. V. Jadhav (Bombay Central Division: Non-Muhammadan Rural): I agree with my Honourable friend, the Deputy President, that the amendment proposed is not needed. False labeling, as it has been called, may have been practised in former times when England was a free trade country and manufactures from Germany and other foreign countries were admitted free of tax into England and re-exported from there to other countries with the label that they were made in Britain. But, now, England is not a free trade country and there is an import duty, and that

[Mr. B. V. Jadhav.]

import duty is certainly higher than ten per cent. So, the importer in England will not purchase manufactured goods from Germany or other countries for the purpose of exporting the same to India and getting a preference of ten per cent., because in that case he will have to pay import duty into England. Therefore, it will not be found profitable for a person to falsely label "Made in England". As England is now not a free trade country, I do not think the fear entertained by my Honourable friend, Bhai Parma Nand, has any reasonable ground, and I, therefore, think that the amendment is not necessary.

The Honourable Sir Joseph Bhow: If I oppose this amendment, it is not because I do not have sympathy with the object which I take it lies behind the amendment of my Honourable friend, Bhai Parma Nand. But my Honourable friend, Mr. Shanmukham Chetty, has explained with admirable clearness, the position in regard to certificates of origin necessary to qualify for preference. My point in regard to the amendment is merely this, that the word "genuine" is entirely redundant. It adds nothing to the meaning of the phraseology used in this clause. As a matter of fact, the rules that we propose to issue under this clause are for the very purpose of making clear what should be considered to be the produce of a country. The introduction of a word like "genuine", which is not in itself definite, would also require the insertion of an explanation to explain what the word itself means. It is for that reason, because it is otiose and redundant, that I object to the motion of my Honourable friend. The making of these rules is a matter of considerable difficulty. They must, on the one hand, not be so strict, and, on the other, not so lax, as to defeat the object of the parties to the Agreement. My Honourable friend, Mr. Chetty, may rest content that we shall bear in mind what has fallen from him in regard to this matter before the rules receive their final shape. It is on the ground of redundancy that I oppose the motion of my Honourable friend.

Bhai Parma Nand: I beg leave to withdraw my amendment.

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

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clauses 3 and 4 were added to the Bill.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That the Schedule stand part of the Bill."

Mr. B. V. Jadhav: I beg to move:

"That in the Schedule to the Bill, in amendment No. 47, in the proposed Part VIII, against item No. 173 for the figures and words '30 per cent.' and '20 per cent.' the figures and words '35 per cent.' and '25 per cent.', respectively, be substituted."

Item No. 172 is as follows:

"The following natural essential oils, namely, citronella, cinnamon and cinnamon leaf, 30 per cent., standard rate of duty; 20 per cent., the United Kingdom duty; and 20 per cent., British colony."

These essential oils are differentiated from other natural essential oils. As the oils, citronella, cinnamon and cinnamon leaf, are not manufactured in India, I am not at all concerned with them, but the other essential oils are manufactured in India, their manufactures are likely to grow and, therefore, that industry deserves some encouragement. At present the rates are 30 per cent., and if a ten per cent. be given as preference, then the duty will be 20 per cent. and the British goods will come in very severe competition with Indian made goods and, therefore, the manufacturers of these goods may suffer. Hence I propose that the duty should be raised higher. I am not against preference to British manufactures, but I want to preserve the advantage which the manufacture of essential oils at present enjoys, namely, 25 per cent. Therefore, I propose that the standard rate of duty should be 35 per cent. in the case of goods from all other countries and 25 per cent. in the case of goods from England. Sir, I move.

The Honourable Sir Joseph Bhow: Sir, I would like at the outset to say that not only the commodity covered by this amendment, but those covered by every single amendment notice of which has been given were most carefully considered by the Select Committee and this case illustrates very clearly the difficulty of making a proposal without examining most carefully all its repercussions. As regards natural essential oils, I would point out to my Honourable friend that the consideration which operated very strongly in the minds of the Select Committee was the fact that these essential oils were largely used in manufacture. For instance, they are used in the manufacture of soap, perfumery, etc. We, therefore, felt that it was unwise to put the duty up on what was really a raw material of manufacture. Then, again, I would point out to my Honourable friend that there is the synthetic oil which is imported into this country and if you raise the duty on the natural oil and the synthetic oil comes in at the lower rate, it is going to compete very unfairly. For these reasons, the Select Committee, after careful consideration, decided that balancing all the interests concerned it was wiser to leave the figures at 30 and 20. I hope, in these circumstances, my Honourable friend will not press his motion.

Mr. B. V. Jadhav: I do not want to press my amendment.

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

Mr. K. P. Thampai (West Coast and Nilgiris: Non-Muhammadan Rural): Sir, I beg to move:

"That in the Schedule to the Bill, in amendment No. 47, in the proposed Part VIII, item No. 176 be omitted and in the proposed Part IX, after item No. 224, the following new item be inserted:

SEEDS.				
225	Oilseeds, non-essential, all sorts not otherwise specified, including copra or coconut kernel.	Ad valorem.	35 per cent.	25 per cent.'

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LEGISLATIVE ASSEMBLY. [14TH DECEMBER 1932.]

[Mr. K. P. Thampan.]

Though this item deals with oilseeds in general, the most important and the one to which this amendment refers is what is called copra. Copra is the dried kernel of coconuts from which coconut oil is extracted. It is largely used for edible and toilet purposes. In the West Coast of India, in South Canara, Malabar, Cochin, and Travancore, industries connected with coconut in one form or other, play a very important part in the economic life of the people. There is the coir industry, the manufacture of copra and coconut oil and, lastly, the tapping of coconut trees for making toddy and sugar. These are the industries connected with coconut oil. You will bear with me, Sir, when I explain the importance of the subject in detail.

The area under coconut cultivation in India, according to the agricultural statistics of 1930, was one million 377 acres. Most of it is in South India where the acreage is one million 299 thousand acres. The industry is, therefore, practically confined to South India. Half of this is in Native States, mostly Travancore. Cochin and Mysore also contribute a little. In the year 1920, the acreage under coconut cultivation was only one million 201 thousand. You will, therefore, see that within the last ten years there has been an increase of one million 76 thousand acres under coconut cultivation. There is still considerable scope for increasing the coconut cultivation, though it must be said that the low-lying parts of the plains of the sea coast are practically fully covered by coconut cultivation. For a distance of 30 miles from the sea coast, you can cultivate coconut even on hills and mountains. In North Malabar, particularly in Quilandy and other places near Tellicherry from where my friend, Mr. Uppi Sahab, comes, you can cultivate coconut even to a distance of 40 miles from the sea coast. It thrives very luxuriantly there. That is why I say, there is still considerable scope for expansion of the cultivation of coconut. What I wish to emphasise upon is, that this industry affects the happiness and welfare of more than 18 millions of people. The population of South Canara is more than two millions. That of Malabar is three millions and odd. Cochin and Travancore have more than six millions. People in the borders of Mysore also depend upon the cultivation of coconut. So, there is a large population which is dependent on the industries connected with coconut. The subject is not a thing which can be lightly ignored. On the West Coast, the most important source of income to the ryots is the coconut tree. To understand the question, in all its bearings, it is necessary to examine in some detail the economic condition of the people concerned. In Malabar, the resettlement was brought into force last year. Though, under the rules of the settlement, only 18½ per cent. is the maximum increase which the Government can make at the time of a resettlement, the effect of the rules and other things, has been such that the increase works out at nearly 50 per cent., because they change the classification and taram of a garden or holding and increase thereby the rate of assessment. I shall refer to a particular instance of mine.

A garden, for which I used to pay Rs. 7½ hitherto, has been by a trick of, what I may call, an administrative legerdemain, assessed to Rs. 50, that is more than 700 per cent. I preferred an appeal to the Revenue Board with no effect. The settlement was introduced last year in defiance of public opinion at a time when there was acute financial stringency all over the country. In the Madras Legislative Council, our representatives

were able to pass a Resolution requesting the Government to hold over the introduction of the new settlement until the economic condition improved. The Resolution was passed with an overwhelming majority. Still, the Government did not give effect to it. While the land revenue was increased by 50 per cent., the income of the ryot decreased considerably from all sources. With the prohibition propaganda going on in the country and with effective picketing, people are not allowed to give the trees for tapping, with the result that their income from that source has considerably gone down. The price of the coconut itself has depreciated by 100 per cent. to 120 per cent. I was myself selling coconuts two years ago easily at Rs. 80 a thousand. Last year it was only Rs. 25 a thousand. That is the plight to which the ryot is reduced as regards his income. But, with the direct and indirect taxation, the cost of bare necessities of life has not in any way decreased, and the problem of existence has thus become really very difficult for him. Under such circumstances, I maintain, our duty is to safeguard and protect his interests and not add to his difficulties.

Another item connected with the coconut industry, with which this Bill deals, is the coconut oil. All aspects of the subject were completely threshed out in the Select Committee, and I must take this opportunity to express my thanks and gratitude to the Committee and to the Government for accepting my suggestions with regard to the coconut oil.

Copra is equally important, if not more, from the producer's point of view. Sir, the Bill, as drafted and recommended by the Select Committee, proposes to fix a 20 per cent. *ad valorem* duty on colonial and 30 per cent. on foreign imports. At present the ruling rate is 25 per cent. In other words, the Bill aims at reducing the rate from 25 to 20 per cent. so far as the colonial cultivator is concerned and increasing it to 30 per cent. against foreigners. My suggestion is that the present duty of 25 per cent. might be continued for British products and 35 per cent. be fixed for the products of foreign countries, and thereby maintain the principle of preference underlying the Agreement adopted at Ottawa. Sir, Ceylon is the only country that imports copra into this country and competes in this matter with our indigenous product. Of course, there are one or two other countries also, but their import is nominal and they may be ignored from consideration, and, for the purpose of our discussion, it would be sufficient if we restrict ourselves to Ceylon. Let me, again, quote some figures. In the year 1930-31, we imported from Ceylon only 58 tons valued at Rs. 21,000. But then, in the next year, namely, in 1931-32, we imported 1,248 tons valued at Rs. 2,20,790. The figures for 1932-33 are not available here; but I am told the increase in 1932-33 has been phenomenal. I am indebted for this information to a Ceylon newspaper, namely, the *Ceylon Daily News*, published in Colombo. I find in its issue, dated 19th November last:

"The value of the exports of copra from Ceylon to India in 1931 was only Rs. 1,64,423. For the ten months ending October 31 of the present year the value of copra exports from Ceylon to India had reached Rs. 20,63,920. In October alone, copra to the value of Rs. 7,95,803 was exported from this country to India. The figures for coconut oil are even more impressive. In the memorandum addressed by the Indian Merchants Chamber to the Government of India, it is pointed out that India's imports of coconut oil had risen from 130,241 gallons in the first six months of 1930 to 3,035,516 gallons in the first six months of the present year."

This is indeed a phenomenal increase, which neither the Government nor any commercial organisation has cared to explain. It might be an

[Mr. K. P. Thampan.]

accident, perhaps owing to the failure of crops in South India during the last two years and, God willing, old conditions could be revived. Sir, what I wish to impress on the House and lay emphasis upon, is that this increase has taken place under the present tariff duty of 25 per cent. So there is no necessity whatever, so far as Ceylon is concerned, for reducing further that rate. If there is to be a further reduction to the extent of five per cent. as contemplated, the increase in imports is bound to be more. More and more copra and coconut oil will be dumped into this country from Ceylon to the ruin of our own producers. Now, the considerations which weighed with the Select Committee in rejecting my suggestions were two. In the first place, it was said that there had been a great demand from the oil industries for the reduction of the duty, and then, the interests of the consumers have to be considered and protected. I submit, that so far as the mills are concerned, they are run by capitalists, and they are not in need of any particular help. They can purchase the copra at the present market rate, put on the working expenses and still sell at a fair selling price. There is no difficulty; and, after all, this five per cent. is not very much, so far as the millowners are concerned. Now, with regard to the interests of consumers, you will excuse me, Sir, when I say that it was not evinced and was not a factor which weighed with this House when either the protection to the steel industry, or the protection to the textile industry and, recently, after I came here, the protection to the sugar industry or the protection to wheat cultivation was passed. If the interests of the consumers in this country were any criterion at all, these were all waived and conveniently ignored in the Bills granting the afore-said protection. From where did the sympathy develop all on a sudden? And so far as the consumers themselves are concerned, the price of coconut oil has been reduced by half during the last two or three years. This five per cent. will add only one anna to a gallon or two pies for a bottle of coconut oil. That is only nominal and the House, I submit, need not bother about that. Now, the paper, from which I read a little while ago, goes on saying that:

"So far as Ceylon is concerned, nothing would be more welcome to the coconut industry than the abolition of the Indian duty on copra. Such a step will not only bring more money into the pockets of the producers, but will also give a fillip to the demand for copra in India."

—as if we are anxious to have Ceylon copra. They say that the abolition or partial reduction of five per cent. will go a long way to help the Ceylon producers. Why should we go out of our way to help Ceylon producers, to the detriment of our own cultivators is a point which I cannot understand. On the other hand, a five per cent. increase in the price of coconuts will go a long way to alleviate the condition of the ryots of our own country. Such a thing is not without a precedent, as, every one is aware, this very Assembly has passed a duty on imports of wheat, in the interests of the agriculturists of the Punjab. Sir, am I to understand that simply because there are about 20 Members from the Punjab, all very influential and vociferous men who could bring their influence to bear on the Government, that that Bill was passed, and that we, coming from the West Coast, are few in number, my proposal is turned down? That cannot be. Sir, agriculturists are agriculturists everywhere and they stand in need of help everywhere. What is good for the Punjab agriculturist must also be good for the Malabar agriculturist. The reasons and the logic of the Committee

in arriving at their conclusion are beyond my comprehension. My suggestion is not to add anything; I only want that the present rate should be continued. People are already considerably agitated over this matter judged from the several telegrams I have received. The Malabar Chamber of Commerce at Calicut asked me to oppose the Bill throughout. I shall read two messages I received yesterday. The telegram of the Jnanodaya Association at Tellicherry runs thus:

"Malabar coconut industry hard hit by Ceylon competition. Travancore Legislative Council adjournment motion allowed to discuss dumping Ceylon copra in Travancore. 20 per cent. duty inadequate. Jnanodaya Association of coconut agriculturists tappers pray raise duty 30 per cent. Prohibition propaganda killed tapping industry. Copra only other income."

Then, Sir, the telegram of the Travancore Chamber of Commerce at Alleppey says:

"Travancore Chamber of Commerce urgently press for retention of present import duty on copra and coconut oil at 25 per cent. for Empire products and for increase to 35 per cent. for non-Empire. Any lowering of import duty will be economically injurious to Indian producers of copra and oil. Chairman."

When people get to know the full import of this, there will be a great agitation all over the place.

Before I sit down, Sir, I will appeal to the Government with all the emphasis I can command to give due consideration to this matter. The Honourable the Commerce Member is himself a landholder. He was at one time the Dewan of Cochin, where there is a large population of coconut growers. I hope he can easily realise their troubles. I hope he realises what blessing, what boon he can confer on them by accepting this amendment. Sir, I am told that he is going shortly on a tour to South India, to Cochin and other places. If he goes there, he can make personal inquiries regarding this matter. Let him first satisfy himself that it will not be a hardship on the people concerned, and then he may do what he thinks fit. The rules permit it. Until and unless he is so satisfied, I would strongly appeal to him to keep the present rate by accepting my amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Amendment moved:

"That in the Schedule to the Bill, in amendment No. 47, in the proposed Part VIII, item No. 176 be omitted and in the proposed Part IX, after item No. 224, the following new item be inserted:

SEEDS.				
225	Oilseeds, non-essential, all sorts not otherwise specified, including copra or coconut kernel.	<i>Ad valorem.</i>	35 per cent.	25 per cent."

Mr. Uppi Sahab Bahadur (West Coast and Nilgiris: Muhammadan): Mr. President, I rise to support this motion. Mr. Thampan has very plainly told the House the present condition of the agriculturists in my country, and the Honourable Sir Joseph Bhore very well knows the part which the coconut industry plays in the economic life of Malabar. The whole wealth of Malabar depends upon coconut and coconut alone. Sir, it has been said that the Ceylon Government were trying to get the present tariff duty reduced. The price of coconut in Ceylon had fallen very

[Mr. Uppi Saheb Bahadur.]

low and they were trying to find a market in India. But, fortunately for us, the Government did not find their way to reduce the present tariff.

Sir, Malabar has been supplying all these years coconut to the whole of Southern India and also to the Punjab and Sind and, I think, also to Central India. Now, if the duty is reduced, as is proposed, the result will be a sudden fall in the price of coconut. Large quantity of coconut is now lying in Malabar. Only three or four years ago, the price of fresh coconut per thousand was Rs. 40 or Rs. 50 and now it has gone down to Rs. 20 or Rs. 30. The result is that the condition of the poor agriculturists has become miserable. In a recent issue of *The Hindu* I saw that an agitation had been set on foot in the Travancore State to prevent the dumping of copra and coconut from Ceylon. Mr. Thampan has already supplied the House with the figures showing the rise in the imports from Ceylon. Sir, I am very much afraid that this reduction of five per cent. will kill our coconut industry and it will hit the Malabar agriculturists very hard. The agricultural system of Malabar is peculiar to itself. There are small plots of land owned by various people, the products of which they sell in the markets. If the price of coconut falls, certainly these people will suffer heavily. Sir, this is not the protection of a key industry like the Tata Iron and Steel Works or the sugar industry, but it affects millions of poor people. If the protection given to the Tata's is removed, only certain shareholders and certain millowners may suffer and, perhaps, our Indian steel industry might also suffer. But, if the protection to the coconut and copra is removed at this juncture, it will hit the population of Malabar very badly. As it is, the present settlement that is going on there is hitting the poor tenants and the poor landowners very badly. So, at this juncture, if this protection were also to be removed, starvation and ruin will be the only result. So, I do not believe that our cry from far off Malabar will be a cry in the wilderness in this House. I hope and trust that our Northern India brethren and our Madras brethren will come to our rescue and save us from dire calamity which is staring us in the face. They will help us to keep this industry going and to save our agricultural population from starvation.

Some of our Indian gentlemen have asked whether our copra is sufficient. Sir, even now it is sufficient to supply the requirements of the whole of India. In fact, there are no buyers. I am not myself an industrialist; I am only an agriculturist and, therefore, I cannot supply with exact figures of the quantity of copra that is produced and the exact requirements of India. Anyhow, the industrialists always go in for cheaper goods. In Ceylon, the price of copra has gone down to a very low level and if that copra and coconut is allowed to come into India, the result will be that there will be a sudden fall in the price of the Indian coconut or perhaps there may not be any demand at all for Malabar coconut and copra for sometime. It is for these reasons that we are now asking for protection. We want merely to retain the protection we have been enjoying, namely, 25 per cent.; and it will be to the interests of Government also to raise the foreign duty to 35 per cent. In order to help a country which has come to a certain agreement with some other country, are we to give concessions? We have not come to any agreement with the Ceylonese Government. We have come to some agreement with Great Britain and, in order to help a country which has allied herself to Great Britain, are we to suffer? I do not know whether, the Ceylon Government, will agree, unless we approached her through Britain, to permit us to import our products

into Ceylon. That is a matter yet to be seen. I can understand our giving some concession to Great Britain, but not to people who have been allied to her by some attachment or relation. I do not know whether I am right; but I understand that we have not come to any agreement with dependencies of Britain such as Ceylon; and, now, because we are giving Great Britain some concession, we will have to give concession to Ceylon in an indirect way. I am willing to be corrected if Mr. Chetty will enlighten me on that point. So, what I say is, protect our industry; at the same time, you can keep the word of your Agreement: raise the other duty by ten per cent. Sir, I support the motion.

Mr. C. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): Sir, my friend, Mr. Thampan, who represents Malabar in this House with great ability has naturally taken up the question affecting the district to which I have the honour to belong. Even from a purely political point of view on the eve of a general election, if a political cobra were to be let loose against Mr. Thampan, he can win the election on the copra. (Laughter.) But it is not as an election stunt, but as a purely agricultural problem that he has been discussing the copra question before us. A flood of copra pours into Malabar from a British colony and even though our industrialist friends in the neighbourhood of Malabar, like Mr. Chetty—in a fast motor I can reach his house from mine in an hour—even though they are so close to us, they hate their neighbours, they do not even love the copras. (Laughter.) The industrialists say that copra is the raw material for the making of coconut oil; therefore, the tariff wall against copra should be lowered in regard to a British colony. But the contention is that Malabar produces an adequate amount of copra for the coconut oil that is made in this country. I recognise that the tariff wall is heightened against coconut oil from Ceylon and a large quantity comes from Ceylon; and, in this matter, I admit that the Honourable the Commerce Member and other members of the Committee were quite conciliatory; they did not want the Ceylon oil to compete unfairly with the Malabar or South Indian oil. At any rate to some extent they gave relief, but we were not satisfied. I miss my friend, Dr. DeSouza, who warmly supported us and took up a very strong attitude in the matter. We are grateful to the Select Committee for having mentioned our difference in this particular matter in the body of the Report. I have nothing more to add than this: that Mr. Thampan has made an exhaustive case on the subject, and Mr. Chetty, with all his eloquence, cannot meet Mr. Thampan's case if he were to proceed purely on facts—and not fiction—that some Coimbatorean economists delight to indulge in. (Laughter.)

The Honourable Sir Joseph Bhoré: Sir, in the privacy of this Chamber I confess to a sneaking sympathy with my friend, Mr. Thampan. I have lived for many years on the West Coast and I know the importance of the coconut tree and all its products in the economy of West Coast life. But though Mr. Thampan is my friend, truth is my divinity. Mr. Thampan has, I think, placed the case quite fairly. I think he will agree that the Select Committee considered this matter with some care. Through his able advocacy, I may say, the Select Committee were converted to the view that in the case of coconut oil, the preference should be given by raising the duty entirely upward. So far as copra was concerned, I think he will admit that the reason which influenced the Select Committee not to recede from the figures originally entered in the Schedule, namely, 20 and 30,—the reasons which led them to that view were fairly considered. As Mr. Ranga Iyer has pointed out, the reasons were that it is the raw

[Sir Joseph Bhore.]

material of an industry—not merely the oil-expressing industry, but incidentally to some extent at any rate of the soap industry and of the industry which is now manufacturing what is known as vegetable products in this country. On one point I ought to join issue with my friend, Mr. Ranga Iyer, and that is this: he suggested that we produce all the copra that is necessary for the use of the industries I have referred to in this country. That, I do not think, is the case. At any rate we have received the very strongest representation to the effect that the copra produced on the West Coast and in India is not sufficient to meet the demands of these industries. The real point, as it appears to me, is this: until 1981, the ordinary revenue rate of duty was 15 per cent. on copra. Until then, as far as I know, we had received no complaints in regard to the competition of Ceylon copra. Even now we are not proposing to go below 20 per cent.; and, to my mind, it appears that a protection of 20 per cent. is considerable when you remember that it is a raw product with which we are dealing. Unless my friend, Mr. Thampan, can show why it is that the raw product in this country, namely, copra, with a protection of 20 per cent., cannot compete with the imported article from Ceylon when all the natural conditions, as far as we know, are similar, unless he gives satisfactory reasons to show why that is the case, I fear we must adhere to the decision of the Select Committee. With much regret, therefore, I am afraid, I must oppose his amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question which I have to put is:

"That in the Schedule to the Bill, in amendment No. 47, in the proposed Part VIII, item No. 176 be omitted, and in the proposed Part IX, after item No. 224, the following new item be inserted:

SEEDS.				
225	Oilseeds, non-essential, all sorts not otherwise specified, including copra or coconut kernel.	Ad valorem.	35 per cent.	25 per cent."

The motion was negatived.

Mr. B. V. Jadhav: Sir, I move:

"That in the Schedule to the Bill, in amendment No. 47, in the proposed Part VIII, against item No. 181, for the figures and words '30 per cent.' and '20 per cent.' in columns three and four, the figures and words '25 per cent.' and '15 per cent.', respectively, be substituted."

It is well-known that since western medical science was introduced into India, western medicines have also invaded this country, and year after year, as a result of the products of the various Medical Colleges in all parts of India, large numbers of graduates are coming out and are beginning to practise in various cities and towns. Almost all of them receive their medical education in the allopathic system, and the medicines they generally use are imported from western countries, especially from Germany and England. This has gone on for a number of years, but during the last Great War it was found that the drug making industry ought to be established in India and that India ought to be independent

of supplies of medicines from foreign countries. Every one remembers what high prices had to be paid for such necessary remedies as santonine and quinine. They were almost unprocurable and, therefore, many inferior substitutes were used to the great detriment of the health of the children of this country. So, it will be evident that in the case of medicines and drugs India ought to be independent and produce the necessary medicines she requires.

In various parts of the country, factories are rising up and medicines and drugs are being manufactured. In Bengal, there are a number of factories and their products are sold all over the country with great success. Bombay does not lag much behind in this matter, although, it must be admitted, she does not lead. They have generally to compete with the imports from Germany and England. This invasion of medicines is not confined to the allopathic remedies alone, but, even in the Ayurvedic field, Germany has begun to invade. I may point out that the most costly and important medicine known as *Makaradhwaja* is now manufactured in Germany by the famous firm of Mercks and imported into this country, and while the *Makaradhwaja* made in India is sold at so high a price as Rs. 60 and Rs. 70 a tola, Mercks *Makaradhwaja* is available at retail shops at Rs. 4 per tola. In this way, foreign medicine is competing not only, as I observed, in the allopathic medicines, but also in the indigenous remedies of the Ayurvedic and Unani systems. The Homœopathic remedies are also being imported from Germany and America in very large quantities and they are competing with the products of the factories started here.

Mr. B. K. Shanmukham Chetty: Your amendment wants to reduce duties still further.

Mr. B. V. Jadhav: So, Sir, I think Government ought to do something to give protection to these indigenous industries and they should try to at least keep up the duty that is at present levied.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Amendment moved:

"That in the Schedule to the Bill, in amendment No. 47, in the proposed Part VIII, against item No. 181, for the figures and words '30 per cent.' and '20 per cent.' in columns three and four, the figures and words '25 per cent.' and '15 per cent.', respectively, be substituted."

Mr. B. K. Shanmukham Chetty: Sir, for the admirable reasons mentioned by my friend, Mr. Jadhav, I oppose this amendment.

Mr. B. V. Jadhav: I wish to withdraw my amendment, Sir. The amendment was, by leave of the Assembly, withdrawn.

Mr. B. V. Jadhav: Sir, I move:

"That in the Schedule to the Bill, in amendment No. 47, in the proposed Part VIII, against item No. 183, for the figures and words '30 per cent.' and '20 per cent.', the figures and words '35 per cent.' and '25 per cent.', respectively, be substituted."

India was noted in olden times for its fine steel and cutlery, but now things have changed, and we have been depending upon foreign countries even for the necessary articles. But, latterly, factories have been started in various parts of India, especially in Northern India, and knives and forks.

[Mr. B. V. Jadhav.]

and so on, in Hathras and other places are made in large quantities. The cutlery of Dayalbagh near Agra is well known and they produce very fine articles. At the same time, I may point out, that they cannot

5 P.M. compete with the very big manufacturing houses of the West, especially Germany and England. Therefore, the protection that was given by the tariff in India ought to be continued for some more time in order to provide sufficient respite to this Indian industry to be able to compete with the foreign competitors. The question of the nascent industries is a very important one. India has been an agricultural country so far, but we have seen that the prices of foodstuffs and other agricultural produce have abnormally gone down and, therefore, there has been a good deal of unemployment and a good deal of starvation in the country. If the financial and monetary condition of India is to be improved, the Indian industries must grow and give employment to a larger number of persons than they have been doing hitherto. For this purpose, small factories for producing useful articles ought to be erected in all parts of India and they ought to be encouraged by suitable tariffs. This cutlery industry is one of these. The industry can be started here and, with sufficient encouragement and care, it can hold its own in a number of years. Therefore, the protection that was given by the former tariff ought to be continued even against England. By this amendment I propose that the tariff now in existence ought to be retained against England and that a higher tariff by ten per cent. ought to be levied on articles from other countries. Sir, I move my amendment.

The Honourable Sir Joseph Bhoré: Sir, this is also one of those cases which were very carefully considered by the Select Committee and their reasons for retaining the preferential and the standard rates at 30 and 30 per cent. were mainly three. First of all, it should be noted that no application has ever been received by the Government of India from this industry for protection. Secondly, no representation was received either by the Government of India or by the Select Committee or by the Committee appointed by this House, in regard to this particular industry. Thirdly, the cutlery industry in India is mostly confined to articles which are not competitive with the imported article. I ought also to add another reason and that is this. The United Kingdom share of imports of cutlery into this country amounts to only 25 per cent., so that raising the duty to 25 and 35 per cent. would impose an unnecessary burden on the consumer. It is for these reasons that the Select Committee came to the conclusion that the rates originally entered should be maintained, and, I am afraid, I must oppose my Honourable friend's amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question which I have now to put is:

"That in the Schedule to the Bill, in amendment No. 47, in the proposed Part VIII, against item No. 183, for the figures and words '30 per cent.' and '30 per cent.', the figures and words '35 per cent.' and '25 per cent.', respectively, be substituted."

The motion was negatived.

The Assembly then adjourned till Eleven of the Clock on Thursday, the 15th December, 1932.

APPENDIX.*

Mr. N. R. Gunjal (Bombay Central Division: Non-Muhammadan Rural): Sir, I emphatically oppose the third reading of the Bill. This Bill and all its clauses will be a tool in the hands of subordinate Government officials, who will be entrusted with the administration of the law, to practise oppression on innocent and respectable people. This Bill has, moreover, crippled the powers of the High Courts. The general consensus of opinion expressed through the Press or otherwise has definitely been against the Bill; and my province, the Maharashtra, is no exception. Such oppressive laws are sure to crush the popular leaders fighting for the national cause, and religious institutions like the Masur Brahmacharyashram, and those of other kinds. In spite of the fact that the Third Round Table Conference is in session in England, and taking advantage of the opportunity that they can at present command a majority in the Assembly, the Central Bureaucracy have brought forward this Bill. Sir, "divide and rule" is the British policy.

Sir, as remarked by the late Lokmanya Tilak, such unjust laws may have some control over the body, but they can have none over the mind. The great poet of India, Rabindranath Tagore, has altogether been outside the field of politics, but he is also gradually becoming alive to the reactionary character of this law. He has the following opinion of such laws:

"It is no difficult job to heap mountains of oppression and tyranny on people who have been cowed down by defeat and are in a helpless condition."

But, Sir, tyranny is sure to lead its authors to a moral degradation; and I, on behalf of my countrymen, warn Government—beware of this moral degradation. Government are damaging the very foundations on which they stand by extermination of the independent institutions in the country. Government, no doubt, Sir, have got unlimited powers; it is no wonder that they should feel satisfaction over it. What I have to say is this, that moral force also is as valuable as the physical force. My countrymen are, no doubt, powerless to oppose oppression, but nobody can take away the power of the people to withdraw the moral support on which every Government must stand and which fact will be recorded in the history of the land.

I should also like to mention the views of Lord Asquith on the point; he says:

"Whenever there arise discontent and huge agitation amongst the public in a country, that is an indication of the existence of a *bona fide* difference of opinion between the public and the Government; and only good-will and not repression is the remedy on such occasions. Therefore, repression should not be resorted to; democracy should be established."

Political Pandits, like the late Lokmanya Tilak, have defined Government in some such way: Big men tell us that Government is an abstract noun in the neuter gender and, like God, its actions are guided without

*Vide page 2846 of Legislative Assembly Debates, dated the 3rd December, 1932.

motives; but just as God has the shackles of *Maya*, so is Government restrained by persons who have control over its affairs; these persons, like other human beings, are subject to human passions; and it is the experience that these people dim their own and Government's vision and lead it astray.

It would not be out of place to note the views of the late Honourable Mr. Gokhale on this point: He says that the Government for the time being profess that their ways are moral and their trusteeship of India is based on moral grounds and that they govern the country for the good of the people; but whenever the bureaucracy, entrusted with the administration of the country, is prone to pass repressive laws, counter to the national aspirations, the people will not be much in the wrong if they call such bureaucracy as unjust and tyrannical.

Several rulers, like *Ravana*, ruled in Hindustan and especially in the City of Delhi, and whenever ill counsels of the Ministers prevailed, oppression went to the length of imprisoning all the thirty-three crores of gods. The inevitable consequence was that even the powerful kingdom of *Ravana* became extinct. These historical events should not be overlooked.

Sir, the Honourable Mr. Haig gave us to understand that this law was to remain in force for a period of three years only and that thereafter the democratic form of Government was to be established in the country and there was, therefore, no reason to be afraid of. The argument seems to me very peculiar. That the British bureaucracy should dream so is, no doubt, a happy augury.

Three years more and the Britishers will lose their sway over thirty-three crores of Indians. The prospect is, no doubt, disconcerting to them. But there seems in this a sign of Divine intercession, and a popular representative like myself should not at all be sorry over it. A number of amendments to this Bill were moved, clause by clause, and the Honourable Mr. Haig has personally heard all the discussion on them. He is counting on the difference of opinion among the Non-Officials and is, therefore, convinced of a safe passage for the Bill. It is apparent that the popular party in the House is in the minority at the present moment and that the Bill will surely be passed. But the Honourable Mr. Haig should take note of the fact that the opinion in the country is behind that party, although they may for several reasons be in the minority at this time. An ancient instance in point, Sir, belongs to the times of the Lord Shri Krishna. The *Kauravas* then formed the majority party, and the *Pandavas* the minority party. But the majority opinion in the country favoured the *Pandavas* and ultimately they became victorious and the throne of Delhi came to their possession.

Superior bureaucrats of the type of the Honourable Mr. Haig are fed at the cost of India; their salaries are not drawn from the Western countries. The Honourable Mr. Haig should bear in mind that we are the masters of India; Hindustan is the motherland of Indians; and although repressive laws like the Ordinance Bill are passed, we cannot be compelled to leave this land; it is the British bureaucracy who have got to leave it bag and baggage. I should advise him not to pass this repressive measure;

otherwise, he will be responsible for the sin of weakening the power of the British bureaucracy in India.

I would, at the same time, urge on the popular representatives in the House strongly to oppose this oppressive law. They should put into execution the promises made by them to the people at the time of their election. Sir, I should like them to consider that if they do not do that, there are few chances for their re-election. It is not at all becoming on the part of a representative of the people to make promises of safeguarding the interests of the people at the time of the election and, when once elected to the Assembly, to help the Government at such critical junctures. I warn them against such a sin. This Bill will create a situation whereunder the master gets roasted gram, while the servant gets *laddoos*. With these words, I strongly oppose the Bill.

LEGISLATIVE ASSEMBLY FEB

Thursday, 15th December, 1932.

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

MESSAGE FROM THE COUNCIL OF STATE.

Secretary of the Assembly: The following Message has been received from the Council of State. It runs as follows:

"I am directed to inform you that the Council of State has, at its meeting held on the 14th December, 1932, agreed, without any amendment, to the Bill to supplement the Criminal Law which was passed by the Legislative Assembly at its meeting held on the 7th December, 1932."

THE INDIAN TARIFF (OTTAWA TRADE AGREEMENT)
AMENDMENT BILL.

Mr. T. N. Ramakrishna Reddi (Madras ceded Districts and Chittoor: Non-Muhammadan Rural): Sir, I move:

"That in the Schedule to the Bill, in amendment No. 47, in the proposed Part IX, against item No. 222, for the words 'Two annas and six pies' and 'six pies', the words 'Two annas and one pie' and 'one pie' respectively, be substituted."

The amendment refers to mineral oils standing as Item No. 222. The original rate of duty was two annas one pie per imperial gallon. This mineral oil does not refer to the batching oil used for jute manufacture nor to fuel oil, but is confined only to lubricating oil used for lubrication purposes and the original duty was two annas one pie per imperial gallon. Sir, the Government originally proposed three annas as the standard rate of duty and one anna as the preferential rate of duty to the United Kingdom, thus keeping up the margin of two annas, and now, in the Select Committee, they have seen the wisdom of reducing the duty, because this mineral oil is used for oil engines and other engines which are used for industrial purposes and they have reduced the standard rate of duty to two annas six pies, and the preferential rate to six pies to United Kingdom. My amendment is to reduce the standard rate to two annas one pie as it originally was and the preferential rate to one pie. The reason is this. We are getting most of the lubrication oil from the United States and very little from England. Out of nearly ten million gallons, we get as much as nine millions from the United States of America and about a little over one million from the United Kingdom. My proposal will not reduce the revenue considerably to the Government. I have calculated that if the present importation into this country continues, as it has continued for the last three years, our customs revenues will not diminish appreciably. It will diminish by a lakh of rupees, because,

out of ten millions we get nearly nine millions from the United States of America for which the rate of duty under my amendment, is the same as it exists at present. On the other hand, if the rates of duty, as levied by the Select Committee, are to be approved, then we will get about 17½ lakhs of rupees by way of duties. That means an additional burden of nearly four lakhs of rupees on the consumers. On the other hand, the policy of the Government should be that we have to get this oil at a very cheap rate, because it is used for industrial purposes and we should not increase duties beyond what they are at present. Further, this preferential duty will give advantage to the oils imported from the United Kingdom, because the duty is reduced to one pie—practically nil. Since the purpose of the Government should be to develop the industrial concerns in this country, and since this lubricating oil is used only for industrial purposes, the Government ought to accept this amendment. With these words, I move my amendment.

The Honourable Sir Joseph Bhore (Member for Commerce and Railways): I am afraid I must oppose this amendment entirely on financial grounds. The question was carefully considered in the Select Committee and, in deference to the wishes expressed by the members of the Select Committee, we agreed to reduce our duties which were originally placed at three annas and one anna, respectively, to two annas six pies and six pies, respectively. In making his calculation, my Honourable friend has, I think, overlooked one material point, namely, that with so large a preference as two annas, it is almost certain that there will be a large substitution of British imports for foreign imports, the result being a consequent heavy loss of revenue. On grounds of revenue, I must oppose this.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in the Schedule to the Bill, in amendment No. 47, in the proposed Part IX, against item No. 222, for the words 'Two annas and six pies' and 'six pies', the words 'Two annas and one pie' and 'one pie', respectively, be substituted."

The motion was negatived.

Mr. B. V. Jadhav (Bombay Central Division: Non-Muhammedan Rural): Sir, I move:

"That in the Schedule to the Bill, in amendment No. 47, in the proposed Part IX, against item No. 225, for the figures and words '30 per cent.' and '20 per cent.', the figures and words '35 per cent.' and '25 per cent.', respectively, be substituted."

Item No. 225 is Boots and Shoes composed mainly of leather. India has now commenced to make boots and shoes of leather and there are very large factories in Cawnpore and other places. The industry is also threatened by outsiders, especially Bata and others, and English boots also compete with Indian-made boots. Therefore, the protection for Indian boots must be substantial, and, for that purpose, I move this amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Amendment moved.

"That in the Schedule to the Bill, in amendment No. 47, in the proposed Part IX, against item No. 225, for the figures and words '30 per cent.' and '20 per cent.', the figures and words '35 per cent.' and '25 per cent.', respectively, be substituted."

Mr. S. G. Jog (Berar Representative): Sir, everybody knows that in India this industry is on a growing scale, but, at the same time, the preferences that are being given will probably serve as a great handicap to such growing industries. I, therefore, support the amendment moved by my friend, Mr. Jadhav.

The Honourable Sir Joseph Bhore (Member for Commerce and Railways): Sir, I am afraid, my Honourable friend, Mr. Jadhav, begged the whole question when he said that the imports into this country were in competition with the local product. That, I think, is certainly not the case, so far as the information that is available goes and so far as our calculations enable us to come to a conclusion. The imported article is of very much higher value and it is practically non-competitive with the local product in this country. This question was gone into at considerable length in the Select Committee, and, it was on that ground, namely, that the articles were not competitive with the local product that the Select Committee came to the conclusion that, in the interests of the general consumer, the figures should be maintained at 30 and 20 per cent. Sir, I oppose the motion.

Mr. B. V. Jadhav: Sir, I beg for leave to withdraw my amendment.

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

Mr. T. N. Ramakrishna Reddi: Sir, I beg to move:

"That in the Schedule to the Bill, in amendment No. 47, in the proposed Part IX, against item No. 229, for the figures and words '37½ per cent.' and '30 per cent.', the figures and words '32½ per cent.' and '25 per cent.', respectively, be substituted."

Sir, this amendment refers to the duties on motor cars. With regard to motor omnibuses, which is next to that item,—item No. 230,—the Select Committee have kept the standard rate as it existed previously and given the preference by a reduction in the duty as it existed. This amendment refers to motor cars. The object, with which the Select Committee retained the 25 per cent. duty as it existed, as the standard duty, and gave preference by lowering the duty, was for giving facilities for the road transport. Motor lorries and motor buses are playing a very large and growing part in road transport, and that is why they have done this. But, with regard to motor cars, the duty itself existed at a very high percentage namely, 87½ per cent., and even as it is, it will be admitted that it is a very high percentage; and, on account of the economic depression prevailing in the country, there are fewer numbers of cars being imported; and at least in order to give facilities for more imports of motor cars, the duty must be reduced. But I base my amendment entirely on another ground,—in fact on the same ground on which they have kept the percentage of duty at 25 for motor buses. Now-a-days even motor cars are being largely used for transport purposes. That is because the licensing fees for motor buses imposed by the Local Boards have been raised to a very high rate, and hence many taxi-drivers are taking to motor cars, because the licensing duties for motor cars are lower. So we find, Sir, that in towns and villages motor cars are being used to a large extent for road transport purposes, and it is the poor people also that use these motor cars as buses. Hence I propose to lower the duty to 32½ per cent., and to keep the preference at the standard rate as it exists for motor omnibuses. Since there are few motor cars that are being imported, the revenue also does not suffer by Government accepting this amendment. Sir, I move.

Mr. G. Morgan (Bengal European): Sir, I have every sympathy with the amendment moved by my Honourable friend, Mr. Reddi. "I know that the duty has been reduced in the case of the United Kingdom. For a long time I have been trying to get Government to look at this question of import of motor cars from the point of view of utility. I know the revenue position, and the question put to me always was,—“Can you prove that it is the purchasing power which is responsible for the smaller import, or can you prove that it is the duty which is preventing the import of motor cars?” Well, Sir, nobody can answer that particular question. But I asked Government in a question put on the floor of the House as to whether it would not be possible to test it by reducing the duty and definitely find out as to whether it was due to the purchasing power of the people, which was at a low ebb as we all knew, or whether a stimulus might be given by a reduction of the duty. There is no doubt that there is a very strong case for the early reduction of the rate of duty on motor cars at the next Budget time. We all know that motor cars have been run now to the utmost point of utility. In the United States, at the present moment, the production of motor cars is being extended. They are running down very rapidly indeed, and, in the United States of America, the motor car makers have come to the conclusion, which is apparent and no doubt quite apparent to my Honourable friend, the Finance Member, that replacements will have to take place within the next year or 18 months. A car has only a limited life. At the present moment, old cars are using more petrol, and my Honourable friend, the Finance Member, is no doubt getting some extra duty from the use of old cars. But the point is that with this replacement coming along, whether it would not be advisable to reduce the duty still further on the lines suggested in the amendment of my Honourable friend, Mr. Reddi. I do not press for the acceptance of this amendment at the present moment. My object in speaking on this amendment is that, although the duty has been reduced on the United Kingdom all other countries will have to pay 87½ per cent. There is nothing allowed for the British colonies and a very large production comes from Canada. There are lots of works in Canada which are producing cars and they will all have to pay the duty of 87½ per cent. If the Government could see their way to accept this amendment, I should be very pleased indeed; but if they show that it is quite impossible from the revenue point of view that they should accept it, then I personally would not press the point. At the same time, revenue in many cases can be carried too far. My friend has put the case clearly before the House. No doubt there are many Members in this House who know that Mr. Gandhi has always said that we begin at the wrong end. He said we wanted so much money for expenditure and then we turned round to find out where we could get it. As a tax-payer, I am thoroughly in sympathy with that view, and if that was the main plank of the Congress, perhaps I would join it myself being a tax-payer. I do not think I should care to wear the Gandhi cap, but I would be in full sympathy with any suggestion to alleviate the present position of taxation. I put it to the Honourable the Finance Member and to the Honourable the Commerce Member that, if they can possibly see their way that such a reduction in revenue would not make them afraid of the financial stability of the Government of India, I would recommend that they should accept this amendment.

The Honourable Sir Joseph Bhoré: I am sure the House will realise that this is not an occasion for a general lowering of duties. We are merely concerned here with fitting in preferential rates of duties into our existing

tariff system with the least possible dislocation of our financial arrangements and of commerce and industry. I think the House will realise that we have gone a great way in revising our original proposals and in accepting the view of the majority of the Select Committee that the preference should be given entirely by lowering the existing rate. I do not think, Sir, that the House could reasonably expect us to do more than we have already done. I will deal with the other points raised by Mr. Reddi when we come to the next amendment.

Sir, I oppose this amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is :

“That in the Schedule to the Bill, in amendment No. 47, in the proposed Part IX, against item No. 229, for the figures and words ‘37½ per cent.’ and ‘30 per cent.’, the figures and word ‘32½ per cent.’ and ‘25 per cent.’, respectively, be substituted.”

The motion was negatived.

Mr. T. N. Ramakrishna Reddi: Sir, I persist in moving my amendments. I move:

“That in the Schedule to the Bill, in amendment No. 47, in the proposed Part IX, against item No. 240, for the figures and words ‘25 per cent’ and ‘15 per cent’, the figures and words ‘15 per cent.’ and ‘5 per cent.’, respectively, be substituted.”

This refers to cinematograph films, not exposed. Of course, Sir, I admit that even this item also was considered by the Select Committee thoroughly and they have retained the standard rate of duty as it existed previously, though they had proposed originally a higher rate, and have fixed the preferential rate by lowering the existing duties. My submission is that it does not go far enough. In answer to some of the previous amendments, the Honourable the Commerce Member has said that with regard to the raw materials which are used for industrial purposes, the duty must be kept as low as possible. That was his answer. Now, Sir, here is a case in which he has to put his precept into practice. Here is a raw material which is used for the cinematograph films and which ought to have rightly been placed in the duty-free list. Cinema films are not only utilised for entertainment purposes, but they have been extensively used for educative and health propaganda purposes as well. Besides, the cinematograph industry has now become a growing industry in India. I am told that in America this is the second largest industry and there is no reason why in India also it should not grow at least as one of the most important industries. Sir, the reason why I want a reduction of duty with regard to this item is that hitherto only silent films were in vogue in the country, and it did not cost much to produce a silent film. But now we are having talkies everywhere and I am told that its production costs nearly five to six times the cost of producing a silent film. Hence, I suggest that the raw material for that film should be made as cheap as possible. This industry is providing labour for so many Indians and, therefore, the duty should not be kept as high as it is now. The cinematograph industry in India is struggling for its very existence and it is certainly in the interests of the growing industry that the duty should be lowered. The Honourable the Commerce Member said that we are now dealing only with the matter of adjustment of the preferential tariffs and not with the lowering of the tariffs as it had existed up to this time. But, I gather from the report

[Mr. T. N. Ramakrishna Reddi.]

of the Delegation that we are free even now to lower the existing duties, but that we should keep the margin of preference intact and it is, on that account, that I venture to move for the reduction of this duty.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Amendment moved:

"That in the Schedule to the Bill, in amendment No. 47, in the proposed Part IX, against item No. 240, for the figures and words '25 per cent.' and '15 per cent.', the figures and words '15 per cent.' and '5 per cent.', respectively, be substituted."

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): Sir, I support this amendment and, in this connection, I would like to draw the attention of the House to the report of the Indian Fiscal Commission of 1921-22. They have said:

"Raw materials required for Indian industry should ordinarily be admitted free of duty. This is an obvious principle of general acceptance in protectionist countries... We have recommended, for instance, that there should be as a rule no duties on raw materials. Similar considerations apply to the case of semi-manufactured articles which do not get straight into consumption, but are used in the process of manufacture of any industry in India. Any taxation imposed on such articles reacts on the industries which use them, and, consequently, will either injure those industries or will necessitate the imposition of some compensatory duty."

This applies very much to this new cinema industry that has come into India and that should be protected. I would also read a portion of the report of the Indian Cinematograph Committee where they say:

"There is, however, one tariff concession which we consider the producing industry can legitimately claim. Raw or virgin film is the raw material of the industry. It has been made clear to us that the production of finished films, especially of good films, inevitably involves a very considerable wastage of raw films. Raw film is not made in India, nor is it likely to be so made, for years. That the raw material of an industry should be free of duty is almost axiomatic..... We feel that the Government should be prepared to sacrifice this relatively small part of revenue. For the sake of administrative convenience and also for the reason that the import of non-standard cinematograph films cannot be considerable, we recommend that all classes of raw cinematograph films should be put on the free list of this tariff."

Sir, for these reasons I support the amendment.

Mr. B. V. Jadhav: Sir, I rise to support the amendment moved by my Honourable friend, Mr. Ramakrishna Reddi. The film industry has been engaging the attention of the Legislature for a number of years. It was in 1925 that the late Honourable Sir Haroon Jaffer moved a Resolution in the Council of State that in place of the various existing Provincial Boards a single salaried Board be appointed for the whole of India to regulate the import into India of cinema films and to exercise a stricter control over cinemas in general. This Resolution was opposed by the Government and was negatived. Then, in 1925, a question was asked by Khan Bahadur Sarfaraz Hussain Khan in this Assembly, and, in March, 1927, the Honourable Mr. Ramadas Pantulu moved in the Council of State a Resolution recommending to the Governor General in Council to improve the system of censorship and control over cinemas and other public resorts of amusement and to adopt adequate measures to prohibit the exhibition therein of films and other shows which were calculated to corrupt the morals of the people. The then Home Secretary, the Honourable Mr. H. G. Haig, accepted the Resolution and agreed, on behalf of Government, that it was

desirable to improve the system of censorship, but he was not prepared to condemn the work of the Censor Boards which, on the whole, making due allowance for the difficulties, had been carried out very successfully. Elsewhere in his speech, referring to the attempts being made to produce more British films, he expressed the hope that, if more British films were forthcoming there might be some improvement, and went on to say that it seemed to him that a still greater improvement would lie in a considerable extension of the production of Indian films,—showing Indian stories in an Indian setting.

The Resolution was adopted by the House. In 1926, the Imperial Conference passed the following Resolution:

"The Imperial Conference, recognising that it is of the greatest importance that a larger and increasing proportion of the films exhibited throughout the Empire should be of Empire production, commends the matter and the remedial measures proposed to the consideration of the Governments of the various parts of the Empire with a view to such early and effective action to deal with the serious situation now existing as they may severally find possible."

The "remedial measures proposed" were those suggested by the Economic Sub-Committee and were as follows:

- (1) Effective customs duties on foreign films, whether accompanied by a change in the basis on which duties are payable or otherwise;
- (2) Ample preference or free entry for films produced within the Empire;
- (3) Legislation for the prevention of "blind" and "block" booking;
- (4) The imposition of requirements as to the renting or exhibition of a minimum quota of Empire films.

It, therefore, became incumbent on India in common with other parts of the Empire to consider whether or not she should take any steps to give encouragement to British Empire films.

On the 14th September, 1927, the Home Member, the Honourable Mr. J. Creer, moved the following Resolution in the Legislative Assembly:

"That this Assembly recommends to the Governor-General in Council that he be pleased to appoint a Committee to examine and report on the system of censorship of cinematograph films in India and to consider whether it is desirable that any steps should be taken to encourage the exhibition of films produced within the British Empire generally and the production and exhibition of Indian films in particular."

A Resolution in identical terms was moved in the Council of State by the Home Secretary, the Honourable Mr. Haig. In both the Houses the Resolution was carried.

On the 6th October, 1927, the Government of India appointed a Committee, over which Diwan Bahadur T. Rangachariar, C.I.E., presided. He is at present a Member of this Honourable House and I regret his absence from his seat on the front Opposition Bench on this occasion, as it deprives us of the sound knowledge of this industry which he acquired before and during the investigations of the Committee.

The Committee submitted their report and it came up for consideration before this House. For reasons known to themselves Government thought it fit not to accept the recommendations of the Committee and opposed the Resolution in this House, and in the voting there being a tie, the motion was negatived by the casting vote of the Chair, following the Parliamentary practice.

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It was due to the propaganda made by the Federation of British Industries including the Film Industry of England, the whole Press of England, and by the publicists and writers and almost everybody of importance there, who clamoured for markets for British entertainment films—an industry which was just rising—that led to the Resolution of the Imperial Conference and, consequently, the appointment of the Committee by the Government of India, and, as recommendations of that Committee did not propose any preference to British films, this might have led to the rejection of the recommendations by Government. It is a matter for congratulation that for the preference to be given to the manufacture of British raw cinema films this question has again been brought before this House by Government.

I must state here how I began to take interest in this industry. As Minister to the Government of Bombay in charge of Industries, the film industry attracted my attention, and I was watching its progress. I was also watching the progress of the industry in Kolhapur, which is my home, and which has, from the very beginning, taken a leading part in its development; and I am very proud to say that both the silent pictures and the talkies produced there have been pronounced to be the best yet produced in India. I have had many opportunities of watching the shooting and this has convinced me of the importance of this Indian industry, both from the educational and entertainment and economic points of view. I shall refer to this point again.

The importance of the cinema is very well-known. I cannot do better than by quoting from the report of the Indian Cinematograph Committee, which, in its paragraph 4, says:

"In its aspect as an instrument of education, the cinema has been the subject of various national and international conferences, and has engaged the attention of the League of Nations. It can be used educationally, in the limited sense of the word, as a mode of supplemental instruction in schools and colleges, and for illustrating certain scientific and technical processes. It has, however, a special value as a medium of education in the wider sense; for the purpose of propagating ideas or information among the masses on such subjects as public health, hygiene, improved agricultural methods, civics and a variety of other matters. And in this connection it has a special interest for India with her vast illiterate population."

In Europe and America, the population being generally literate and educated, the need of the cinema was first felt as a means of entertainment. After the war, its use for spreading education began to be realised in Europe. Russia is a country which is full of illiterates depending upon agriculture which was carried on under the old crude methods, and down-trodden by the strong government of the Czars run under the old feudalism, and, therefore, poverty-stricken. The Soviet Government under Lenin saw the potentialities of the Radio and the Cinema in educating the masses, and, since then, other countries in Europe and America have also begun making use of it for education. But, in Russia, the films are mainly intended as educative and only the second place is given to the entertainment side; on the contrary, other more advanced countries look upon the entertainment side as of the first importance. In this connection, I may be permitted to quote what Mussolini, the Dictator of Italy, recently said to Emil Ludwig, the famous German publicist, who pointed out to the Duce that Italy did not make much use of the film for propaganda:

"There the Russians have set a good example. We will also spend more money for it. The film is today the most powerful weapon for propaganda and education."

Mussolini has also persuaded the League of Nations to start the famous International Educational Cinematograph Institute at Rome. This institution has been engaged from the past four years in international educational film problems, such as establishing an international educational film library and compiling a register of educational films. The other countries of Europe and America have also recognised the importance of education through the cinema, and I may point out that the American Government have, at their own expense, produced films representing agricultural operations, hygiene, mining, metallurgy and other trades and offered them to educational institutions, private clubs and cinema shows, free of charge.

I shall now try to narrate before the House a short history of the film industry in foreign countries. Although the invention of the cinema is credited to Edison, who materialised the idea first about half a century ago, the real fathers of the modern cinema, acknowledged by the scientific world, are the Lumiere Brothers of France who invented the projector and made a public exhibition possible in 1896. Sweden, France and Italy first took up the industry, but, during the War, America developed the industry and attained the first position in it. In about three or four years after the War, Germany, France, Italy and Russia took up the industry and England came in the line in about 1925. To what extent the development of the cinema industry in America has reached will be shown from the following figures published in the Film Almanac of 1932 as collected by the Chamber of Commerce, Washington:

"The total number of theatres is about 20,000, out of which nearly 2/3 are wired for talkies. They are visited every week by 65 to 90 million people. The total capital invested in that industry is over two milliard dollars. The cinema industry supports a huge army of 276,000 persons, out of whom 27,000 are engaged in production, 9,000 in distribution and 240,000 in exhibition. Besides this, the industry spends over 70 million dollars in advertising, out of which nearly 55 million go to the newspapers and magazines, ten millions are spent in posters and five millions in miscellaneous advertising charges."

In this connection, I may state that the total number of cinema houses in the whole world is 61,551 according to the latest statistics collected by the Society of Motion Picture Engineers of America, out of which only about 650 are in India.

Now, a few words as to the history of the film industry in India. The pioneer of the Indian film industry was Mr. Phalke who started the production of entertainment films in 1913 first in Bombay, and then in Nasik. He was followed by a few other adventurous spirits amongst whom, I feel it my duty, to mention the name of Baburao Painter of Kolhapur who, about the year 1918, when he could not get a cine camera, manufactured one for the use of the Maharashtra Film Co., who made a name in the film industry of our country. The camera was actually seen by me in operation and contained many improvements over the model which was copied. The industry took deeper root in the City of Bombay, in Kolhapur, in Calcutta and Rangoon. Adventurous spirits in other places are also starting studios of their own and, I hope, by degrees, that their efforts will be successful and they will make a name in this connection.

In the meantime, in 1927, the first talkies were introduced in America, and India did not like to lag behind. The first talkie that was exhibited by the Imperial Film Co., of Bombay was in March, 1931. A great hit was made next year by the Prabhat Film Co., of Kolhapur whose film "The King of Ayodhya" was exhibited in Bombay continuously for four

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months and it was then acknowledged as the most popular film. But the record has now been broken by the Saraswati Cinetone of Poona whose production "Shyam Sunder" is being screened continuously for 18 weeks and is still running and is expected to run for a few weeks more. There are also other film companies who have achieved considerable success, and I should not fail to mention the name of the Ranjit Film Co., of Bombay. It is worthy of note that although there are no training institutions in this trade in the country and although some of the producers had not even the advantage of higher education, still their genius has triumphed over all the difficulties and they have succeeded in producing really creditable talkies which is a highly developed technique and in which, in western countries, only experts are employed. In this connection, I may quote from the Report of the Indian Cinematograph Committee the following:

"By these remarks it is not our intention to cast any sort of reflection on the Indian producers; on the contrary, we consider that much credit is due to them for having achieved without the advantage of any thorough training the measure of success which has been obtained, and for having advanced the Indian production so rapidly, within the last few years."

I may mention here that Burma is also showing much energy in this venture and they are making good progress both in silent pictures as well as in talkies.

It will interest the Members of the Assembly to realise the economic importance of the film industry in India. The present few companies that are working provide employment to a very large number of people and it is estimated that not less than 13,000 persons are employed only in the production, distribution and exhibition branches of the industry. Besides this, work is provided to allied industries such as printing presses, newspaper business, electrical industry, etc. The total capital invested in all the three branches of the industry, according to a modest estimate, amounts to over two crores of rupees. The industry has another good point in its favour. It is quite free from any communal, religious or sectional bias. We have seen Muhammadan actors in the role of Krishna and Harishchandra, and Parsi actors in similar roles. The Anglo-Indian community also gets its share and, among the distributors and exhibitors, there are persons of every caste and creed.

Then, as regards the difficulties which the film producers have to contend against. The chief difficulty the Indian industry has to contend against is want of finance; and the market is very much restricted on account of the small number of theatres compared with other leading film countries of the world. In the case of talkies, there is another difficulty of the language and the field is still more limited on that account. The poverty of the people and the consequent low purchasing power is also a great obstacle to its development. But this is not all. Not only the cost of raw materials has increased by the heavy customs duty, but they have to pay also an exorbitant import duty of 50 per cent. on Radio valves and other electrical goods required for the recording and reproducing apparatus and lighting equipment.

The Archaeological department too is not very willing to grant permission for photographing historical places to be used as background, and the Railway Companies have not yet recognised the claim of film producing companies for concession rates when they go in the country for outdoor shooting.

Although the military authorities stated before the Rangachariar Committee that their help would be available at reasonable rate for filming war scenes, it is found on experience that this help is not readily available.

Now, I should like to bring to the notice of the House the financial gains to the Government. The industry is contributing a substantial amount to the income of the Government, both Central and Provincial, in various ways. The industry may be divided into three sections—the production, distribution and the exhibition. The producers have to import raw films, machinery, equipment and photographic goods, and customs duties are received from all these. Besides the customs revenue, the Central Government get income-tax on the profits of these concerns as well as from the highly paid actors and persons engaged in the production section. The distributors pay the customs duties on the exposed films imported and also pay income-tax. The exhibitors also pay income-tax to the Central Government and entertainment tax to the Local Governments, besides the customs duty on machinery required for exhibition of both silent as well as talkies. All three contribute a substantial amount to the local bodies in taxes and cesses.

With regard to imports, I may state here that raw films of the total length of 1,23,72,093 ft. valued at Rs. 5,89,355 were imported in 1927-28. In succeeding years, there has been a gradual increase and, in 1930-31, for which figures are available, the total footage had more than doubled and stood at 2,88,90,211 of the value of Rs. 11,07,665. Bombay Presidency alone takes about 75 per cent. of this. This will show the income from the import duties at 25 per cent. *ad valorem* which Government receive from the producers. I may here point out that the raw film is the raw material on which this industry works. It is a canon of fiscal policy that the raw materials of an industry should not be taxed. The report of the Indian Fiscal Commission 1921-22 under the distinguished chairmanship of yourself, Sir, lays down:

"Raw materials required for Indian industry should ordinarily be admitted free of duty. This is an obvious principle of general acceptance in protectionist countries (para. 113) . . . We have recommended for instance that there should be as a rule no duties on raw materials. Similar considerations apply to the case of semi-manufactured articles which do not get straight into consumption, but are used in the process of manufacture of any industry in India. Any taxation imposed on such articles react on the industries which use them, and, consequently, will either injure those industries or will necessitate the imposition of some compensatory duty."

The report of the Indian Cinematograph Committee appointed by the Government of India in paragraph 156 says—I need not read all that because it has already been referred to.

Another item of profit to Government is the customs duty on exposed films which, in the year 1930-31, amounted to Rs. 6,00,500.

Whilst the Government are making lakhs simply from the customs duty collected on raw films, machinery, equipment and photographic goods and a large amount from income-tax, of which figures are not available, it is very painful to observe that Government have not recognised the necessity of doing something for the fostering and encouragement of this industry whose potentiality in nation-building and in giving employment to hundreds of thousands are very well recognised. I am afraid that I may be confronted with about two lakhs spent on the Indian Cinematograph Committee, whose report has been shelved and not paid much attention to.

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Besides this, the Provincial Governments pocket the entertainment tax and make no return to the industry. In this connection, I may point out that from reports heard, the Government of Bombay in these days of stringent finance did not scruple to take away from the Bombay Board of Film Censors 2-8rds. of their accumulated savings amounting to about Rs. 60,000, to which they had no just claim in law, as the Board is not an official body. As a Sanskrit poet says:

"*Dibhushchitah kim na karoti papam!*" which means,

"What sin will not a famished man commit!"

Although Government are very eager to appropriate funds in the shape of taxes and duties, they do not care even to collect the necessary statistics and do not realise the responsibility of supplying them to public men and those in the trade. A friend of mine approached the Government of Bombay for the annual figures of entertainment tax collected from the Cinema houses and theatres in the Presidency and the reply was:

"Figures are not readily available and Government cannot undertake to collect them."

It is worth mentioning that the tax is collected in only five districts and could have been ascertained by only five letters addressed to the various collectors. Similar requests to other Provincial Governments were also turned down. It is, however, to the credit of the Government of the new Frontier Province, who do not levy any entertainment tax, that they readily supplied the information about the number and location of the cinema houses.

I may point out that in America the Department of Commerce gets statistics not only for their own country, but also for foreign countries. When the Motion Picture Society of India wanted to know the number of cinema houses in India and failed in their attempt to get the necessary information from official sources, they had to refer to the statistics collected by the Department of Commerce, United States of America, and found the figures for the complete year 1931. I am afraid, such figures and statistics about this industry may not be available here at all, and in the voluminous report, "India in 1930-31", this paying and important industry has been dismissed with a paragraph of about eight lines.

There is no doubt that the industry deserves help and encouragement from Government. In this connection, it will not be out of place to see what other Governments have done and are doing in this direction.

In Germany, the Reich Government have invested a large amount in the share capital of well-known companies. The Prussian Government, I learn, have issued a decree that all educational institutions and schools should be provided with cinema projectors and this has given a great impetus to the production and distribution of educational films in particular and other films in general, and, under a rule, educational films are exempt from the payment of any entertainment tax. In order to encourage the home cine industry, the Reich Government imposed from the 6th of September last import duties on unexposed raw films of 600 RM. per 100 Kgs., whilst the duty on exposed and developed positive

films is 2,000 RM. per 100 Kgs. It is noteworthy that the import of the exposed and developed negative is allowed duty free. This high tariff on the exposed positive film and exemption of the negatives from that duty encourages the distributors to import foreign negatives and give work to the established German printing laboratories.

Italy also under a law gives substantial subsidies to the producers of good films and films which have typical national tendencies. Accordingly, it was reported in the press in April this year that amounts of 2,048,000 lire and 43,664 lire were given as premiums to two prominent companies in Italy. In this connection, I may mention that these two big amounts were taken from the funds of the entertainment tax collected from the prize of these two film companies selected and approved of by a special Committee and exhibited in the Italian theatres. Under the fostering care of Signor Mussolini, the industry has developed to such an extent that there are about 3,900 cinema theatres with a seating capacity of about 400,000. The entertainment tax collected by the State amounted to 58,000,000 lire in the year 1931. 772 films were passed by the Board of Film Censors out of which 403 were talkies, and the length of these films was 570,400 meters.

Germany, Italy, France and other countries as well as England encourage home industry by what is called the quota system. On the 25th October of this year, Mr. Runciman, President of the Board of Trade, when interpellated in the House of Commons, stated that raw cine films, to the value of £160,000, were imported in 1929, and the same article in 1931 was imported to the value of £202,000. Exposed positive which was imported in 1929 of the value of £195,000 fell down two years later to £139,000. The most remarkable fall occurred in the exposed negatives which in 1929 was imported to the value of £797,000, but in 1931 it fell down to £133,000. Thus it will be seen that England is importing less and less exposed positive and negative films, but is not unwilling to import raw films besides the huge quantity they manufacture themselves in the country. Under Government encouragement by the quota system the film industry in England is getting stronger and stronger, and India, if properly helped, will show equally good results.

I may here bring to the notice of this House the importance of bringing into operation many of the useful proposals made by the Rangachariar Committee, most of which have not been accepted by Government. I here offer my congratulations to Government for accepting a recommendation of that Committee that rebate of the customs duty will be granted in respect of films of definite educational value. I was really surprised to read in "India in 1930-31", on page 348, the following statement:

"Before accepting another recommendation made by the Committee that raw films should be exempted from duty, the Government of India have decided that it is advisable to wait until the industry has developed further."

I admit that I fail to appreciate the logic of the opposition. It is in the infant stage of an industry that some concession by Government is required. When the industry has sufficiently developed and is able to stand on its own legs, such encouragement may be not of much use. But here Government refuse to give any help in the infant stage, but say that it is advisable to wait until the industry has developed. "Verily to him that hath more shall be given and from him that hath not shall be taken away what little he hath."

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Under the present circumstances, on exposed films an import duty of 87½ per cent. is payable on the value calculated at 4½ annas per foot, but, out of this, ½ of 87½ per cent. are refunded if any foreign film is returned to the country of origin within two years. So it will be seen that out of about 20 pies tax per foot, Government only retain less than 2½ pies per foot, whilst duty on raw film comes to more than four pies per foot. It has to be borne in mind that in taking films, there is a good deal of wastage which sometimes comes up to about 50 per cent. Therefore, the duty really on the finished Indian film works to about eight pies per foot, i.e., more than three times the duty imposed on exposed foreign films.

I am very grateful to the Honourable the Commerce Member for not enhancing the import duty as originally intended to 80 per cent. from 25 per cent., but he has consented to keep the duty at 25 per cent. and take off the preference to English films of 10 per cent. out of the 25 per cent. present import duty. By this concession the *status quo* of the industry will be preserved. But, as I have just pointed out, the industry is suffering an injustice under the tariff laws and, instead of getting an advantage over the foreign manufactured films, the Indian film has actually to pay more than three times the duty levied from foreign entertainment films. This is a serious competition which the Indian film industry has to meet and I, therefore, urge that Government ought to accept and bring into operation the recommendation of the Cinematograph Committee that raw materials of this new industry should be admitted duty free. But, I realise the difficulty of Government that, as the raw films are included in the Ottawa Agreement, England is entitled to a preference of 10 per cent. In order to respect that Agreement, I have worded my amendment making provision for this 10 per cent. to which the import duty on raw films should be reduced.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order. I hope the Honourable Member realises that the House is getting very impatient.

Mr. B. V. Jadhav: I realise it, but I think I have to teach the House to be patient and pay more attention to industrial subjects.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Please go on.

Mr. B. V. Jadhav: I admit that the loss in such a case will amount to about Rs. 165,000. I make myself bold to suggest to the Finance Member a method of recouping this loss. Under the present system, the period for returning foreign exposed films is two years. I submit that it is too long a period. The distributor is entitled to a rebate only if the film is rejected by the Censors or becomes useless for exhibition owing to damage in transport or imperfect printing and processing. The time for discovering these defects need not be so long and if the period of two years is curtailed to six months, very few films will come up for rebate and Government will easily more than recoup the loss due to the acceptance of my amendment. This reduction of the period for rebate from two years to six months, I think, be brought into force by an executive order without consulting the House.

At this proposal vested interests in the country, by which I mean the American film distributors and their parent concerns, the film producers in Hollywood, will, I am aware, raise a finger and call this an anti-American measure inasmuch as 75 per cent. to 80 per cent. of the exposed films, i.e., entertainment films, come from U. S. A. This I can imagine from the attitude of the film press of that country, against which almost all the European countries have enacted quota laws to give a fillip and protection to the rising home industry from the keen foreign competition. Here I particularly draw the attention of these alien vested interests to the fact that the European countries in question place for the requirements of their film industries very small orders for raw cinema films, machinery and other equipment as they are industrially advanced countries and, therefore, self-sufficient in that respect. In the case of our country, it is quite different. Our film industry have been purchasing from U. S. A. from the beginning the major portion of their unexposed films—raw material for the industry and costly machinery, such as cine cameras, printing machines, recording and lighting equipments, etc., for the cinema studios, and silent and talkie projectors and other costly accessories and equipment necessary for exhibition in cinema theatres. Having considered this fact, we will tell the foreign critics to remember the well-known proverb "Live and let live". These people cannot expect to have it both ways. The shrewd foreign businessmen will not, I am confident, object in the least to this or similar suggestions that might come forward for the protection of the Indian film industry.

To sum up, the Indian film industry deserves encouragement at the hands of Government, as it is a great national asset. It is giving opportunities to all sections of the community to show what they are capable of doing, and it is providing profitable employment to a large number of people and promises to help larger numbers as it develops and expands. It has been the policy of all self-governing countries to give the necessary help and encouragement to the industry and I trust that the Government of India and this House will not lag behind and will pass the modest amendment I have the honour to support. (Loud Applause.)

Mr. S. G. Jog: Sir, I rise to speak on this occasion as the Chief Whip of the Nationalist Party and not on behalf only of the members of my Party, but I hope I shall have the support of the whole House. I must congratulate my friend, the Honourable Mr. Jadhav, that he has so very exhaustively dealt with the subject,—to such an extent in fact that he has not only exhausted himself, but exhausted also the patience of this House. (Laughter.) Sir, he has treated the subject from all points of view. He has given a historical retrospect. He has also made certain instructive suggestions. He has also realised the difficulties of the Commerce Member, and he has made certain other constructive suggestions. He has practically left nothing which he has not touched upon. (Hear, hear.) This film industry, Sir, particularly is a matter of great pride to me, as the originator of the film, as disclosed by my friend, is Mr. Phalke, a man from Maharashtra. The industry has been developing since then, and I am not prepared to tire out the patience of this House, but I will only bring to the notice of this House that in 1921 the number of cinemas was 148, in 1927 it rose to 300 and in 1932 it rose to 675. But although it appears that there is a gradual and slow growth in the increase of the film industry, this growth in the volume of the industry as compared with that in other countries is quite insignificant and negligible, and we are

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lagging far, far behind other countries. For the sake of information of the House, I shall briefly state as to what is our status, so far as this film industry is concerned. In America, the population is 120 millions, but the total number of cinemas is 20,000.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Does not the Honourable Member recognise that the fullest statistical information for the whole world has already been given to the House?

Mr. S. G. Jog: I quite appreciate the remarks of the Chair, but I think by mistake or by oversight my friend has omitted to mention this fact. (Laughter.) Sir, realising the necessity of being brief, I shall, with your permission, point out that in the case of India, with a population of 350 millions, our proportion is just the reverse. (Some Voices: "Shame, shame.") In America, Sir, the number of cinemas is 20,000, in England it is 4,850, whereas in India, with a population much more than that of other countries, our total number of cinemas is only 675. (Ironical cries of "Hear, hear.")

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order.

Mr. S. G. Jog: I do not want to tire the House. (Ironical cries of "Hear, hear.")

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order.

Mr. S. G. Jog: Sir, in the remarks, that have been made in the Select Committee Report, I find it stated:

"We have felt throughout our discussions the need for complete statistics of industrial production, giving detailed information regarding the various indigenous industries which might be affected by the proposals contained in the Bill."

Sir, I think this remark at least will not hold good in the case of the particular industry which is under discussion now before the House. I think in the case of other industries the Select Committee has suffered from lack of information whereas in this case I think it is just the reverse—there is a case of over-information. However, I must congratulate the Motion Picture Society of India, the representative body of the film industry, that they have collected all the necessary statistics and information and have placed the matter in the hands of some of the Members to enable them to deal with the subject. It is no doubt true that if the other industries follow suit and place sufficient material in the hands of Members, that will much facilitate the Ottawa Agreement and its operations later on. At present I must make the remark that there are many other industries which are not doing their proper duty by not giving proper information. There is much scope still for the growth of this film industry, and I think it is the duty of the Government to look into the matter and although it cannot exactly fit in our suggestions from the point of view of the present financial position, still, I hope, when the whole thing is in operation, probably after a few months, it will be agreed that it will be advisable to make a fresh survey of the whole thing so as to give the film industry the necessary encouragement in the shape of rebate or some other process acceptable to the Honourable the Commerce Member. Sir, I support the amendment.

The Honourable Sir Joseph Bhore: Sir, I hope my Honourable friend, Mr. Jadhav, will forgive me if I do not follow him through all the intricate details of his most exhaustive and encyclopædic treatment of the position of the film industry in this country. I may say, Sir, that a few days ago, I was waited upon by a Deputation representing the film industry in this country, and I can give this assurance to the House that the representations which I had from them on that occasion will receive our most careful and, I hope, sympathetic consideration. (Hear, hear.) I confess to a considerable amount of sympathy with a good deal that has fallen from Honourable Members who have spoken on this subject and I hope they will accept this assurance that I have just given, though it is not possible for me to accept this amendment. The House will realise that the Select Committee considered this matter and, as a result of our deliberations, it was possible for us to bring the preferential rate of duty down to the figure at which it stood up to 1931. That, I think, is a considerable achievement and I hope the industry itself will be satisfied with what it has gained from this revision of the rates. Sir, I oppose the amendment.

Mr. T. N. Ramakrishna Reddi: Sir, in view of the assurance given by the Honourable the Commerce Member, I wish to withdraw my amendment.

(Leave to withdraw the amendment was refused.)

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in the Schedule to the Bill, in amendment No. 47, in the proposed Part IX, against item No. 240, for the figures and words '25 per cent.' and '15 per cent.', the figures and words '15 per cent.' and '5 per cent.', respectively, be substituted."

The motion was negatived.

Mr. T. N. Ramakrishna Reddi: Sir, I beg to move the amendment standing in my name which runs thus:

"That in the Schedule to the Bill, in amendment No. 47, in the proposed Part IX, against item No. 245, for the figures and words '45 per cent.' and '37½ per cent.', the figures and words '35 per cent.' and '27½ per cent.', respectively, be substituted."

Sir, this is the last of the amendments that have been moved on this Bill. I am sure, it will at once be conceded, that this is one of the most important of the amendments that have been moved so far. Sir, this amendment refers to an article of poor man's consumption, namely, betelnuts. The importance of this article has been perceived even by the Delegation which went to Ottawa and, from their Report, we find that they have given a preference of 7½ per cent. to Britain as against 10 per cent. preference with reference to all other articles of import except motor cars for which preferences were allowed. This is one of the two items which have got only 7½ per cent. preference to the United Kingdom in contrast to uniform 10 per cent. preference in other goods. Hence you find that it is an article of very great importance in the economy of consumption in India. The present duty is as high as 37½ per cent. It was only last year that the Honourable the Finance Member moved for the increase of this duty on this article to the present rate and, even then, I opposed the increase of duty on the ground that it was an article of poor man's consumption. The Honourable the Finance Member then said that in those days of economic depression even the poor man had to contribute something and so he pressed for this increase of duty. Now,

[Mr. T. N. Ramakrishna Reddi.]

I find that the situation has, to a great extent, eased and I am informed that the position of the Customs revenue has also been very much improved. Hence the circumstances that existed when this high duty was levied do not exist now. I also find from the Report of the Select Committee that they have given preferences to the United Kingdom on some articles, e.g., cinematograph films, motor buses and others, by keeping the old rate as the standard rate and by giving preference entirely by the reduction of the present rate of duties. To my surprise, I find that with regard to betelnuts, they have given that preference to the United Kingdom, not by lowering the rate of duty, but by increasing the rate of duty over foreign imports. On the other hand, one ought to have found that they would have given this preference by reducing the rate as it existed at present. Sir, with regard to betelnuts, I am sure that my friend on my right would certainly oppose me; because even last year when I opposed the increase in duty he supported increased duties.

Mr. K. P. Thampan: How do you know?

Mr. T. N. Ramakrishna Reddi: That is why I naturally expected that he will oppose me, but I am glad to get an assurance from him that he will now support me. Sir, I admit that agriculturists would certainly suffer or rather would not get higher prices for their produce if any reduction of duty is made, but the growing of betelnuts is confined only to two or three districts in my Presidency. On the other hand, the consumers of the whole of India have to suffer on account of the raising of this rate of duty. And, as I said before, this is an article of poor man's consumption. At present India is not supplying the wants of the whole country and we are extensively importing from two places, namely, Ceylon and Straits Settlements. From the statistics which are available up to 1930-31, we find that 1,69,000 cwts. to the value of Rs. 31 lakhs of these betelnuts were imported from Ceylon and 10,00,000 cwts. to the value of 151 lakhs were imported from Straits Settlements. It will thus be seen that nearly the whole of the article has been imported from other countries. So, I contend that the duty, as it is at present levied, is very high and that it should be decreased and relief should be given to the poor consumers.

Sir, I move my amendment.

Mr. President: Amendment moved:

"That in the Schedule to the Bill, in amendment No. 47, in the proposed Part IX, against item No. 245, for the figures and words '45 per cent.' and '37½ per cent.', the figures and words '35 per cent.' and '27½ per cent.', respectively, be substituted."

Mr. K. P. Thampan (West Coast and Nilgiris: Non-Muhammadan Rural): Sir, I do not want to disappoint my friend, Mr. Reddi, in his anticipation that I would be opposing him in this amendment. Naturally, I would not have touched this Bill with a pair of tongs after the defeat I have had yesterday on copra, but my friend has drawn me out. Representing as I do the agriculturists of Malabar and South Kanara, which produce the major portion of betelnuts that is grown in this country, I will be failing in my duty if I remained quiet without protesting against this proposal. Sir, I have already acquainted the House with my views on this matter on a previous occasion and I oppose it.

Mr. S. G. Jog: Sir, I must congratulate the Indian Commerce Member on having put betelnut as the last item—No. 245. I do not know whether it is purely an accident or a deliberate programme. I think the Commerce Member knows very well the Indian customs. Betelnut plays a very important part in social gatherings and after giving sweets, if you want a guest to go, you simply offer him betelnut and it practically amounts to a mild hint or notice for the visitor to quit. I think the Commerce Member having come to the end of his troubles now probably wants this House to quit and by putting this betelnut as the last item he gives us a hint that the House should disperse quickly. We, on this side, take that mild hint and friendly hint of the Commerce Member and we shall follow it and terminate the proceedings quickly. My friend, Mr. Ramakrishna Reddi, has made out a good case for this amendment. Betelnut plays a very important part in our social customs: it is the poor man's hospitality and I think no more burden should be placed on it. With these words, I support the amendment of my friend, Mr. Reddi, and finally accept the last item of betelnut offered by the Commerce Member.

The Honourable Sir Joseph Bhore: Sir, I am sorry I cannot accept the suggestion of my Honourable friend, Mr. Jog, and distribute betelnuts to this House, because, I am afraid, supplies are not readily available at the present moment, and even if they were, you, Sir, might have something to say about it. My battle has been fought for me by the stalwarts of the West Coast represented by Mr. Thampan; but there is one point I would like to make and that is, that the statement of my friend Mr. Reddi, that betelnuts are grown in merely two or three districts is not correct. On the West Coast, it is grown in Travancore, Cochin, Malabar, North and South Canara, Coimbatore; in Bengal, it is grown in Backergunje and Noakhali; in Assam it is grown in Sylhet and Cachar; and it is also grown in Burma.

Mr. T. N. Ramakrishna Reddi: But we import large quantities also.

The Honourable Sir Joseph Bhore: I frankly admit that we do; but, at the same time, the cultivation of betelnut is on a fairly extensive scale in this country. As the House knows, our recommendation to retain the standard duty as the preferential rate and give the preference entirely upward was dictated by two considerations: firstly, revenue, and, secondly, the desire to assist the cultivation of this particular agricultural product. Sir, I oppose the amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in the Schedule to the Bill, in amendment No. 47, in the proposed Part IX, against item No. 245, for the figures and words '45 per cent.' and '37½ per cent.', the figures and words '35 per cent.' and '27½ per cent.', respectively, be substituted."

The motion was negatived.

The Schedule was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

The Honourable Sir Joseph Bhore: Sir, I beg to move:

"That the Bill further to amend the Indian Tariff Act, 1894, for certain purposes, as reported by the Select Committee, be passed."

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Motion moved:

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

Sir Abdur Rahim (Calcutta and Suburbs: Muhammadan Urban): Sir, I oppose this motion. In this attenuated House all that I can do at this stage is to record my protest against this Bill which has been introduced and is about to be passed in order to implement the Ottawa Scheme of preferential tariffs. I am afraid, the House is already very tired and it will serve no useful purpose for me to take up much of its time. But, after having read the Report of the Select Committee on this Bill, I am convinced all the more that the whole scheme is a pure gamble and that the Government are not justified in persisting in this measure, as the instance of the British Government. I do not propose to discuss the merits of the detailed proposals in the Tariff Bill, but I wish to point out one very significant admission in the Report of the Select Committee that there are no proper statistics available of the industries of the country. They put it in very mild words, that there is no complete information available as regards our industries. Sir, in the Special Committee on the Ottawa Agreement I asked the officials who were assisting us to supply us with a list of industries in the country that may be affected. But we never received that list and, consequently, we know not and do not know how to grow which are likely to be affected by the tariff proposals under the Bill. The Industries Department has been in existence for a long time and I should have thought that one of their primary functions was to collect facts and figures and all the information available as regards the progress of industrial development in India. It is a strange commentary on our present system of Government that no such information should be available to the country or to this House. What is the use, then, of an Industries Department? How can the industries of this country be looked after when we have no information whatever as to how many industries there are, what is their nature, what are their prospects, to what extent they are contributing to India's economic development and how they can best be protected? This is an omission on the part of the Government which the Select Committee took notice of and made a recommendation that steps should be taken at once to collect all necessary information on the subject. I should have thought that having regard to the economic position of the world and the need which, I do hope, the Government of India also feel that India cannot subsist merely upon agriculture, that India must develop suitable industries, that India must herself utilise as much of the vast resources which nature has placed at her disposal as possible and, if they have realised this even now, surely the first thing they ought to do is: they should set about in earnest to have an industrial survey of the entire country and make out a proper plan for the development of our industrial resources. That is the least they can do and, I hope the recommendation of the Select Committee is not a mere pious wish but that the Government will seriously act upon it and act upon it without further delay. I am sure, the Honourable the Finance Member will realise that India cannot possibly go on for long in this way; the finances of India are bound to break down unless India considerably develops her industries and increases her resources.

Sir, some individual industries have been dealt with in this Report, but I should have thought that the Select Committee would have had placed before it at least that list which was given by Professor Vakil whom we

examined in the Special Committee appointed to deal with the Ottawa Agreement. That list, if I remember correctly, contained 24 industries likely to be affected, and those of us, who signed the Minority Report, also named a number of articles which were likely to be affected by these preferential proposals, but even that list is not given here, and all that we are told is that the Select Committee have done their best to arrive at an equitable adjustment by which the various interests affected would be safeguarded. Now, Sir, look at the magnitude of interests, the variety of interests that are likely to be affected by these proposals, and I really do not find in this Report any real attempt to deal with these important matters. I do not suggest any shortcoming on the part of the Members of the Select Committee. I have had experience of one, and I know that under the circumstances with the materials at their disposal they were absolutely helpless, they had not the time, they had not the material, and, I take it, the British Government must have been asking the Government of India to hurry through the matter and let them have the Tariff Act at once. If they had the time and the opportunity, they could have embarked upon a proper examination of this important subject and then dealt with the various questions affecting the interests of the consumer, the industries and the public revenue. Now, Sir, upon the materials at our disposal, all that we can say is that such extensive alterations of the Tariffs are bound to affect either the consumer or the industries or the public revenue or some or all of them. Has any estimate been made, could it indeed be made in the circumstances? Could it possibly be ascertained how these various interests would be affected? I think the answer was given in anticipation, that is, we must make the experiment and then alone we can know how the various interests will be affected. So far as I am concerned, I consider, and, I am sure, there are a large number of people in the country, if not the entire country, who will consider this as a very light way and very insufficient way of treating a subject of such vast magnitude and importance.

The Government's case is, let an experiment be made for three years, let us see what the results are. *Prima facie* if you enhance the tariff, consumers are likely to suffer. It is all very well to say that in some cases the loss will fall on the producer, but, in the normal course of things, the consumers, the poor millions of India are bound to suffer. If, on the other hand, the tariff is lowered by giving preference to England by ten per cent. or five per cent., then that preference will be of no avail to Britain unless she is enabled thereby to compete not only with foreign exporters, but also with the indigenous industries of the country. I should have liked very much to know how the British list of preferences was drawn up. Surely competent persons must have advised them to the effect: if you have preferential treatment in these particular classes of goods, then you will be able to compete with the producers of similar classes of goods who sell them in the Indian market. Those must include the Indian producers also. That is the natural result, and that cannot be brushed aside by a few general remarks that "we have done our best". I have no doubt the Committee have done their best, but that is not the question. All of us are in the dark as to what the consequences will be. Surely the United Kingdom would not have asked for any preference unless she felt she was on sure ground of being able to capture a large portion of the Indian market—at the expense of the industries of this country and of the foreign countries. That must be the object, and that is why preference is sought.

[Sir Abdur Rahim.]

Now, as regards the revenues, I feel almost sure that my Honourable friend, Sir George Schuster, will assure the House that the revenues will not be affected, but he will pardon me if I say that I cannot accept this dictum at once. Even with him this must be more or less a matter of conjecture. Surely, if the duties are reduced by ten or five per cent., to that extent revenues will suffer, unless my friend is in a position to state to the House that the imports to India will increase proportionately; only in that case the loss can be made up. Now, we have no means of calculating, and, even with the Finance Member, who certainly is more familiar with the subject than any of us in this House, it must be more or less a matter of conjecture, to use popular language. We do not know what the next Budget will be like, we do not know whether we shall have proposals for further taxation or not, we have still another month or two before we know what the Budget proposals will be, but surely none can realise the difficulty of making an estimate more keenly and vividly than the Finance Member himself. When I read his statement at the Ottawa Conference, I was struck very much with the almost desperate position in which the finances of this country are at present. We all wish that the tide will turn and that we shall see the silver lining in the cloud; but it is all in the future, and with this resumption of the entire system of customs revenue by the present tariff proposals, surely the financial position of the Government of India must be still more uncertain than ever. I do not wish to go into details as I have said already, but I do feel and feel very strongly that the Report of the Select Committee on the Tariff Bill does not reassure us to any extent whatever. The position remains as obscure and as full of risks, real risks, to the public revenues, the public at large, the consumers, and to whatever industries we have in the country. On these grounds, I oppose the motion.

Mr. B. Sitaramaraju (Ganjam cum Vizagapatam: Non-Muhammadian Rural): Sir Abdur Rahim, myself and a few other Honourable Members were always opposed to the principle underlying this Bill, and the present measure embodies the stipulated margin which was recommended by a motion of the House which was accepted the other day. Sir, on the third reading of this Bill, if I propose to say a few words, it is in the nature of writing an epitaph on what I consider to be the grave of our opinions in this matter. Sir, we were told that we were misled, in fact we were told that we were duped by ignorance. We were duped according to our friends. The economists who agreed with us were duped; the business and commercial houses who agreed with us were also duped. The whole country which was with us was also duped. The only gentlemen who were not duped were my Honourable friends to the extreme right and to the extreme left! We know we are beaten, badly beaten, but I would like to say, not by Mr. Chetty, nor even by the Honourable the Commerce Member, but we feel that we were beaten by those people who, under a misguided policy, have boycotted this House. The majority of our colleagues had great hopes that they would be able to safeguard the interests of the consumer, to promote the interests of the agriculturist, and to protect the industrialist. Sir Abdur Rahim has already dealt with that part of the Select Committee report which stated that it was found impossible in several cases to reconcile the conflicting interests. It would have required some supermen in the Select Committee to reconcile those interests, but the Honourable Members of the Select Committee were only ordinary human beings, and

they could not do a miracle. There was another difficulty which I pointed out yesterday, and I do not propose to go over that except to remark that it was a great handicap that information from the indigenous industries was not forthcoming to the extent desired to safeguard properly their interests. There are, for instance, in this Bill a number of articles in which are imposed a duty of 30 per cent. in the case of foreign imports and 20 per cent. in the case of United Kingdom imports, but a perusal of the list would show that the United Kingdom was not important in the Indian market in those commodities. The supplies of the United Kingdom were very few indeed when compared with the supplies from foreign countries, and, therefore, when we come to the question of the burden on the consumer, we have got to take into account the fact that several foreign countries are large suppliers of materials like copper, brass, aluminium and things like that, that the higher tariff will govern the general price level in the Indian market and that consequently it would operate as a burden on the consumer. Similarly, it is very difficult for us to say with any assurance in several cases notwithstanding the assurances given by the Leader of the Nationalist Party the other day, that we could do much to safeguard the interests of the consumer in the Select Committee. We tried our level best to safeguard, as far as possible, but the limitations, which I enumerated yesterday, made that almost impossible. Even in the Majority Report, it was admitted that there would be a diversion of trade from India to other countries, and it is impossible to believe that the foreign countries would take all this scheme lying down. They may retaliate, and if that retaliation were to come, a heavy responsibility would lie upon this House for creating such a situation. This is all that I would like to say at this stage. With a voice of protest against this measure, I conclude by remarks.

Mr. O. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhammadian Rural): Sir, I should not have spoken ordinarily after the speech of the Honourable the Leader of the Independent Party, who did not go into the Select Committee, because he did not agree with the principle embodied in the Ottawa Resolution—and carried out in the Tariff Bill—the principle of reciprocal preference. In each and every item that we examined, we endorsed that principle, we put our signature to that principle. The Honourable the Leader of the Independent Party would not reconcile himself to the principle. I could understand his attitude today on the floor of the House, but it is very difficult to understand the rather low, almost inaudible, most certainly understandable “voice of protest” from an Honourable gentleman, sitting behind the Leader of the Independent Party, who just spoke. He put his signature to the Select Committee Report, with all the implications that a signature has

Mr. B. Sitaramaraju: The Select Committee cannot discuss the principle of the Bill.

Mr. O. S. Ranga Iyer: Yes, a Select Committee cannot discuss the principle of a Bill. The Honourable Member has been sufficiently long in this House, and, I believe, in a Provincial House, to know that a Select Committee endorses the principle of a Bill, and the Select Committee on the Ottawa Resolution and, subsequently, on the Ottawa Bill, carried out in each and every respect the principle of that Bill. He walked into that Select Committee, not like a blinded beast, not with eyes tied up. But, like an enlightened gentleman, he walked with eyes open into an illuminated room. It is too late now to say that we have not accepted the principle. Any one who signed that Report accepted it

Mr. B. Sitaramaraju: The Assembly may have accepted the principle of the Bill when it referred the Bill to the Select Committee, but it is something different from saying that every one of the Select Committee accepted that principle.

Mr. C. S. Ranga Iyer: The Committee recommended to the Assembly and the Assembly will today further endorse the principle which was originally endorsed in the Resolution. The Honourable gentleman said that we were writing something in the nature of an epitaph on the grave of our opinions. He was almost lugubrious in tone; he was ~~sepulchral~~ in outlook. (Laughter.) I do not share that funeral, that sepulchral

attitude. I can only say that the opportunity which sincerely and earnestly the Leader of the Independent Party wanted in regard to the industrial survey will be provided by the Assembly Committee which was, I considered at the original stage and still consider, to be a very valuable instrument. It will be a really useful weapon in the hands of this Legislature if only the Legislature knows how to use it. (Applause.)

Mr. S. O. Mitra (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): After the acceptance by this House of the Ottawa Agreement, I think the scope of this Bill was very limited and all that this House or the Select Committee could do was to give effect to the ten per cent. preference to the British goods and to the Colonies. I join issue with Mr. Ranga Iyer on the constitutional point that everybody who goes to the Select Committee is bound to accept or has accepted by implication the principle that has been passed by this House.

Mr. C. S. Ranga Iyer: Not by implication, but by action, by signature.

Mr. S. O. Mitra: Let him read the constitution of the world outside. There are in many countries distinct and definite parties. The Opposition on almost all occasions votes against the principle of the Bills that are introduced. In the Select Committee, there are members of all the parties. As a matter of fact, the Select Committee in the British Parliament represents the whole House in miniature in proportion to their number. Because the Opposition and other parties entered the Select Committee, therefore, they are committed to the principle, it is a very odd constitutional idea to be expressed and emphasised by my friend, Mr. Ranga Iyer. I had been a member of the Select Committee and I have not committed myself to the principle of the Bill that ten per cent. preference should be given to British Empire countries or the Colonies, but in spite of our protest when the House accepts it, it is accepted on behalf of India and the effort of the Opposition in the Select Committee is to minimise, according to their own light, the demerits that are inherent in those proposals. So, I maintain that it is not in any way inconsistent with my friend, Mr. Raju's position as a member of the Select Committee. As regards the sepulchral outlook that he apprehended, time alone will judge. It is no use being jubilant or being very sanguine at this moment. The future will speak for itself as to whether we were right or the other Members. But that question is neither here nor there. As regards the one point on which all the 19 Members of the Select Committee who were present and also my friend, the Honourable Mr. Sadiq Hasan, who was the only absent member, are all agreed is about para. 2 of the Select Committee's

Report. I should like to conclude my speech by merely quoting that para. My Leader, Sir Abdur Rahim, made it clear that the Industries Department failed to give us the figures of Indian industries which were absolutely necessary to definitely settle about this ten per cent. whether it should be added to or subtracted from. We, in the Select Committee, were not in the position of a Tariff Board. The accepted policy of the Government of India about discriminating protection is the ruling principle. We were there only to distribute this ten per cent. preference. In the second para., the Select Committee unanimously says:

"Within the limitations imposed on us by the stipulated margin of preference we have endeavoured to reconcile, as far as possible, interests which may, in many cases, appear to conflict, namely, those of the primary producer, the manufacturer, the consumer and the taxpayer. We have felt throughout our discussions the need for complete statistics of industrial production, giving detailed information regarding the various indigenous industries which might be affected by the proposals contained in the Bill. Since the rates of duty proposed by the Government were published, a certain number of representations have been received from Indian industries regarding the manner in which they expected the application of those rates to affect their interests, and in a very few cases personal representations have been made to us. In the majority of cases, however, we have had no other material to guide us than the information which the Government Departments concerned have been able to place before us."

I must point out here that the Department of Industries has lamentably failed in supplying us with up to date facts and figures about the development of indigenous industries on which alone we could properly deal with the problem before us. The Committee further says:

"That information was necessarily incomplete, and we recommend that, as far as may be practicable, steps should be taken to collect and compile the statistics to which we have referred."

The Honourable Sir Joseph Bhore: I do not wish and, I am sure, the House would not wish me to reopen and revive the controversy which has occupied us in this House for so many days. My Honourable friend, the Leader of the Independent Party, and those, who think with him, have found it necessary to reiterate their position, but I take it, Sir, that that is rather with the intention of emphasizing their adherence to the views they had already expressed and not with any intention of endeavouring to convert the House by argument or appeal at this stage. There is nothing in the speech of my Honourable friend, the Leader of the Independent Party, which has not been traversed and replied to already and it would be needless and unnecessary iteration on my part to repeat arguments which have been repeated on the floor of this House more than once. There is only one point I should like to refer to and it is my Honourable friend's concern in regard to the financial consequences of the adoption of this policy of preference. I would only in this connection repeat to him the figures which I gave to the House in my opening speech. I pointed out that no less than 55 per cent. of our imports were entirely outside the scheme of preference, that 22.4 of the remaining 45 per cent. were covered by preferential duties. How long those preferential duties will remain and what they will eventually be, will depend entirely upon the reports of the Tariff Board on the cotton textile and iron and steel industries. The preferences that we are now giving apply to only 22.6 per cent. of our imports and, so far as it has been possible for our experts to calculate, the preferences that we are now giving will cause little or no

[Sir Joseph Bhore:]

change in our financial position. Sir, I am afraid we must differ on the question of principle and, if so, let us agree to differ, because I think neither my Honourable friend opposite nor I can at present claim the joy that comes from the sinner that repenteth, but I am sure, at any rate I hope that my Honourable friend and others who went into the lobby against us when we voted on the Resolution will realise and admit that if we fought and fought strenuously on that occasion, it was because we were inspired with the honest conviction that what we were doing was in the best interests of India. Sir, there I think the House may allow this controversy to rest for the present.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

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

The motion was adopted. (Loud Applause.)

The Assembly then adjourned *sine die*.

